COURT FILE NUMBER	2401-15969	Clerk's Stamp
COURT	COURT OF KING'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
MATTER	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF A2A CAPITAL SERVICES CANADA INC., SERENE COUNTRY HOMES (CANADA) INC., A2A DEVELOPMENTS INC., and the other entities listed in Appendix "**A**" hereto	
DOCUMENT	**TENTH REPORT OF THE MONITOR** **ALVAREZ & MARSAL CANADA INC.** **May 19, 2026**	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**MONITOR** ALVAREZ & MARSAL CANADA INC. Bow Valley Square IV Suite 1110, 250 – 6th Avenue SW Calgary, Alberta T2P 3H7 Orest Konowalchuk / Duncan MacRae Telephone: (403) 538-4736 / 7514 Email: okonowalchuk@alvarezandmarsal.com dmacrae@alvarezandmarsal.com **COUNSEL** CASSELS BROCK & BLACKWELL LLP 3700, 888 – 3rd Street SW Calgary, Alberta T2P 5C5 Attention: Jeff Oliver / Danielle Marechal Phone: (403) 351-2921 / 2922 Email: joliver@cassels.com dmarechal@cassels.com File: 57100-4	

ALVAREZ & MARSAL

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INTRODUCTION

Initial Order

1. On November 14, 2024, on the application of an *ad hoc* group of Canadian investors in various real estate and land investment projects (the "**Applicant Investors**"), the Court of King's Bench of Alberta (the "**Court**") issued an initial order (the "**Initial Order**") which, among other things, commenced proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA")** and appointed Alvarez & Marsal Canada Inc. ("**A&M**") as the CCAA monitor with enhanced powers (in such capacity, the "**Monitor**").

2. The Initial Order, along with the application materials and all other documents filed in the CCAA Proceedings, are posted on the Monitor's website at: www.alvarezandmarsal.com/A2A (the "**Monitor's Website**").

3. Capitalized terms not otherwise defined in this Tenth Report (this "**Tenth Report**") are as defined in the ARIO (as defined below) the Monitor's Previous Reports,[1] or such other materials filed by the Applicant Investors in support of the Initial Order.

4. As further detailed in the Monitor's Previous Reports, these CCAA Proceedings were initiated by the Applicant Investors in response to the Debtor Companies'

[1] The Monitor's Previous Reports include the Pre-Filing Report of the Monitor dated November 13, 2024 (the "**Pre-Filing Report**"), the Monitor's First Report dated November 20, 2024 (the "**First Report**"), the First Supplement to the First Report dated November 22, 2024, the Second Supplement to the First Report dated November 25, 2024, the Monitor's Second Report dated November 28, 2024 (the "**Second Report**"), the Monitor's Third Report dated December 13, 2024 (the "**Third Report**"), the First Supplement to the Third Report of the Monitor dated December 17, 2024, the Monitor's Fourth Report dated February 19, 2025 (the "**Fourth Report**"), the First Supplement to the Fourth Report of the Monitor dated February 24, 2025, the Monitor's Fifth Report dated April 7, 2025 (the "**Fifth Report**"), the First Supplement to the Fifth Report of the Monitor dated April 14, 2025, the Monitor's Sixth Report dated June 10, 2025 (the "**Sixth Report**"), the Monitor's Seventh Report dated July 21, 2025 (the "**Seventh Report**"), the First Supplement to the Seventh Report dated September 15, 2025, the Monitor's Eighth Report dated October 17, 2025 (the "**Eighth Report**"), the First Supplement to the Eighth Report dated October 28, 2025 and the Monitor's Ninth Report dated January 12, 2026 (the "**Ninth Report")**.

consistent failure to meet their contractual and fiduciary obligations to the Investors (as defined below).

5. The entities which are subject to relief in these CCAA Proceedings as "debtor companies" are A2A Capital Services Canada Inc. ("**A2A CSC**"), Serene Country Homes (Canada) Inc. ("**Serene Canada**"), A2A Developments Inc. ("**A2A Developments**"), Angus A2A GP Inc. ("**Angus GP**"), Angus Manor Park A2A Developments Inc. ("**Angus Manor Developments**"), Angus Manor Park Capital Corp. ("**Angus Manor Capital**"), Angus Manor Park A2A GP Inc. ("**Angus Manor GP**"), Fossil Creek A2A GP Inc. ("**Fossil GP**"), Hills of Windridge A2A GP Inc. ("**Windridge GP**") and US entities Fossil Creek A2A Developments, LLC ("**Fossil Creek LLC**"), Windridge A2A Developments, LLC ("**Windridge LLC**") Wingham Creek A2A Developments Inc. ("**Wingham Developments**"), Lake Huron Shores A2A Developments Inc. ("**LHS Developments**"), and Meaford A2A Developments Inc. ("**Meaford Developments**" and collectively, the "**Debtor Companies**"). Fossil Creek LLC and Windridge LLC are collectively referred to as the "**US LLCs**" and the remaining debtor companies are referred to as the "**Canadian Debtors**".

6. The Initial Order related only to A2A CSC, Serene Canada, A2A Developments, Angus GP, Angus Manor Developments, Angus Manor Capital, Angus Manor GP, Fossil GP, Windridge GP, Fossil Creek LLC and Windridge LLC. Wingham Developments, LHS Developments and Meaford Developments (collectively, the "**Additional Project Entities**") were added to these CCAA Proceedings later by the Additional Project Order (as defined below).

7. The Initial Order also extended the stay of proceeding to certain non-Debtor Companies, namely the following Canadian entities: Angus A2A Limited Partnership ("**Angus LP**"), Angus Manor Park A2A Limited Partnership ("**Angus Manor LP**"), Fossil Creek A2A Trust ("**Fossil Trust**"), Hills of Windridge A2A Trust ("**Windridge Trust**"), Fossil Creek A2A Limited Partnership ("**Fossil LP**") and Hills of Windridge A2A Limited Partnership ("**Windridge LP**" and

collectively, the "**Affiliate Entities**"). The Debtor Companies and the Affiliate Entities are collectively referred to as the "**A2A Group**".

8. Amongst other things, the Initial Order:

   a) appointed A&M as Monitor, with enhanced powers (the "**Enhanced Powers**"), of the Debtor Companies;

   b) granted a stay of proceedings, for an initial period up to and including November 24, 2024 (the "**Stay Period**");

   c) appointed Fasken Martineau DuMoulin LLP ("**Canadian Rep Counsel**") as representative counsel for all Canadian investors in the Business and Property of the Debtor Companies and the Affiliate Entities, including without limitation, the Applicant Investors (the "**Canadian Investors**");

   d) appointed Norton Rose Fulbright Canada LLP ("**Offshore Rep Counsel**" and together with Canadian Rep Counsel, "**Representative Counsel**") as representative counsel for all non-Canadian investors in in the Business and Property of the Debtor Companies and Affiliate Entities (the "**Offshore Investors**" and together with the Canadian Investors, the "**Investors**"), as more particularly described herein;

   e) declared that the Affiliate Entities shall have the same benefit, and the same protections and authorizations provided to the Debtor Companies notwithstanding that these entities are not a "company" within the meaning of the CCAA;

   f) authorized the Debtor Companies to enter into an interim financing agreement with Pillar Capital Corp. ("**Pillar**" or the "**Interim Lender**") and to borrow from Pillar the initial principal amount of $500,000 with the ability to borrow up to $2,000,000 (the "**Interim Financing**");

   g) granted the following charges over the Property in the following relative priorities:

i. First – a charge in favour of the Monitor, its legal counsel, Canadian Rep Counsel and Offshore Rep Counsel (the "**Administration Charge**") to a maximum amount of $250,000; and

ii. Second – a charge in favour of Pillar in respect of the Interim Financing to a maximum amount of $500,000 (the "**Interim Lender's Charge**");

h) authorized the Monitor to act as "Foreign Representative" of the A2A Group, in order to apply for a Temporary Restraining Order in the US and subsequently apply to commence ancillary insolvency proceedings under chapter 15 of Title 11 of the US Bankruptcy Code (the "**Chapter 15 Proceeding**") in the US Bankruptcy Court for the Northern District of Texas (the "**US Bankruptcy Court**"); and

i) declared that all current and former directors and officers of the Debtor Companies (collectively "**Management**") shall have no further power or authority to direct the Debtor Companies.

Comeback

9. On November 18, 2024, the Monitor filed an application (the "**ARIO Application**"), returnable on November 21, 2024 (the "**Comeback Hearing**"), seeking an amended a restated initial order which would, among other things, extend the Administration Charge and the Interim Lender's Charge to attach to the Offshore Investors' undivided fractional interests ("**UFIs**") in the Angus Manor Lands and the Texas Lands.

10. On November 20, 2024, the Debtor Companies filed an application returnable November 21, 2024 seeking, among other things, an order setting aside the Initial Order and terminating these CCAA Proceedings (the "**Set Aside Application**").

11. During the Comeback Hearing, the Court granted an order extending the Stay Period to November 26, 2024. On November 25, 2024, the Honourable Justice Simard issued an amended and restated initial order (the "**ARIO**") which provided

for, among other things, an extension of the Stay Period up to and including December 18, 2024 and an adjournment of the Set Aside Application pending a more fulsome hearing on the issues.

12. Justice Simard declined to grant the Monitor's application to extend the Administration Charge and the Interim Lender's Charge to attach to the Offshore Investors' UFIs in the Angus Manor Lands and the Texas Lands based on the facts and evidence that were before him at the time. Attached hereto and marked as **Appendix "B"** is a copy of the Transcript of the Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Calgary, Alberta, November 25, 2024, before the Honourable Justice Simard in the within CCAA Proceedings.

Procedural Relief

13. Since the Comeback Application the Monitor has brought various applications before this Court for procedural orders:

    a) further extending the Stay Period in these CCAA Proceedings, which was most recently extended up to and including to May 31, 2026;

    b) approving various increases to the Interim Lender's Charge and Administration Charge and changing their respective priorities. The current quantum of the Interim Lender's Charge and the Administration Charge are $1,500,000 and $3,000,000 respectively, with the following relative priorities:

        i. First – the Interim Lender's Charge to a maximum amount of $1,500,000 plus the amount of all interest, fees and expenses in respect of the principal amount advanced with respect to the Interim Financing; and

        ii. Second – a subordinated Administration Charge, to a maximum of $3,000,000;

c) approving all of the activities and conduct of the Monitor up to and including those activities listed in the Ninth Report; and

d) approving the fees and disbursements of the Monitor, the Monitor's Canadian counsel, the Monitor's US counsel, and the Monitor's US conflicts counsel up to and including the fee periods listed in the Ninth Report.

14. The above noted procedural orders are further detailed in the introduction to the Ninth Report.

Other Matters

15. On January 29, 2025, the Court provided Reasons for its decision on the Set Aside Application (the "**January Reasons**"),[2] which, among other things:

a) dismissed the Set Aside Application and confirmed the CCAA Proceedings to be appropriate; and

b) directed the Monitor to provide, within 21 days from the date of the January Reasons, "a plan for gaining control of the Windridge lands and the proceeds of the sales of the Windridge lands and Fossil Creek lands to the Court" (the "**Texas Plan**").

16. In the January Reasons, this Court found that the Debtor Companies and Management are incapable of meeting their responsibilities to the Investors and incapable of conducting a realization and distribution process with respect to the Lands which is fair to all of the Investors.

17. On March 5, 2025, the Court granted an order, among other things approving the Texas Plan. The Texas Plan is further detailed in the Fourth Report.

[2] The January Reasons carry the style of cause *Angus A2A GP Inc (Re)*, 2025 ABKB 51 ["*Angus*"] and are appended as Tab 3 of the Monitor's Book of Authorities filed May 19, 2026.

18. On April 16, 2025, the Court granted an order, among other things approving a sale process (the "**Angus Manor Sale Process**") for the Angus Manor Lands (as defined below).

19. On June 19, 2025, the Court granted an order, among other things, appointing a committee of three Canadian Representatives to act as a committee in consultation with Canadian Rep Counsel.

20. On October 23, 2025, the Court granted an order, among other things:

    a) adding the Additional Project Entities in these CCAA Proceedings, declaring all prior orders made in the within CCAA Proceedings shall apply to the Additional Project Entities, and amending the style of cause accordingly;

    b) declaring that the Additional Project Entities shall be granted all the rights and protections afforded to the other Debtor Companies by the ARIO;

    c) declaring that all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including the proceeds thereof of the Additional Project Entities including, without limitation, the Wingham Lands, LHS Lands and Meaford Lands (each as defined below and collectively, the "**Additional Project Lands**") is "Property" pursuant to paragraph 11 of the ARIO;

    d) declaring that the non-Canadian investors in the Additional Projects are "Offshore Investors" pursuant to paragraph 28 of the ARIO and appointing NRF as counsel to all non-Canadian investors in Wingham Creek ("**Wingham**"), Lake Huron Shores ("**LHS**") and Meaford Highlands Resort ("**Meaford**" and together with Wingham and LHS, the "**Additional Projects**") in the CCAA Proceedings,

    (collectively, the "**Additional Project Order**").

21. On October 31, 2025, the Court granted an order, among other things relieving the Debtor Companies and Affiliate Entities from any and all continuous disclosure, reporting, and filing obligations that may be required of any Debtor Company or Affiliate Entity, under any federal or provincial law respecting securities or capital markets in Canada, other than any rules or regulations of the British Columbia Securities Commission "**BCSC**")[3].

22. On January 19, 2026, the Court granted an order, among other things:

    a) approving a sales process in relation to the Additional Project Lands (the "**Additional Projects Sale Process**") in conjunction with a sale advisor; and

    b) empowering and authorizing the Monitor to register a copy of the Additional Project Order on title of the Additional Project Entities' Property, where the Monitor considers it necessary or desirable.

Appeals

23. The following applications for permission to appeal were heard on March 6, 2025:

    a) US LLCs' application for permission to appeal the December Reasons (File No. 2501-0019AC);

    b) US LLCs' application for permission to appeal the Initial Order (File No. 2401-0353AC);

    c) US LLCs' application for permission to appeal the ARIO (File No. 2401-0352AC);

    d) Windridge GP and Fossil GP's application for permission to appeal the ARIO (File No. 2401-0350AC);

[3] The relief sought in relation to the BCSC was granted by the Court on January 19, 2026.

e) US LLCs' application for permission to appeal the January Reason (File No. 2501-0350AC); and

f) Windridge GP and Fossil GP's application for permission to appeal the January Reasons (File No. 2501-0353AC).

(the "**Appeal Applications**").

24. On April 28, 2025, the Court of Appeal of Alberta granted permission to appeal on the following questions:

a) Did the supervising justice err in concluding that the Canadian investors came within the scope of the CCAA, and that the use of the CCAA in these circumstances was proper either in the decision reported at 2025 ABKB 51 or in the earlier unreported decision on November 25, 2024?

b) Did the supervising justice err in concluding that entities within the A2A Group, including the Windridge and Fossil Creek Groups and the US LLCs, were subject to the CCAA in his decision reported at 2025 ABKB 51, or in the earlier unreported decision on November 25, 2024?

(the "**Appeals**");

the remaining Appeal Applications were dismissed.

25. The Appeals were heard by the Court of Appeal of Alberta on September 8, 2025. On May 11, 2026, the Court of Appeal of Alberta dismissed the Appeals. Attached hereto and marked as **Appendix "C"** are the reasons of the Alberta Court of Appeal in the Appeals (the "**Appeal Reasons**").

PURPOSE

26. The purpose of this Tenth Report is to provide information to this Honourable Court in respect of the following:

a) the activities of the Monitor since the filing of the Ninth Report;

b) the Monitor's request to extend the Administration Charge and the Interim Lender's Charge to attach to all of the Offshore Investors' UFIs in the Lands (as defined below) and the Offshore Investors' interests, whether legal or beneficial, in the proceeds of any sale of the Lands, including, without limitation, the Offshore Investors' interest in the proceeds of the Fossil Creek Sale (as defined below) and the Water District Sale (as defined below); or

   i. in the alternative, authorizing the Monitor to charge the Offshore Investors' interests, whether legal or beneficial, in the Lands, and the proceeds of any sale thereof, in accordance with the Deeds of Covenant (as defined herein) and/or the Special POAs (as defined herein) and declaring that the Monitor has a charge on the Offshore Investors' UFIs in the Lands and the Offshore Investors' interests, whether legal or beneficial, in the proceeds of any sale of the Lands, including, without limitation, the Offshore Investors' interest in the proceeds of the Fossil Creek Sale and the Water District Sale;

c) the actual cash flow results compared to the cash flow forecast updated in the Ninth Report;

d) an updated cash flow forecast through to September 18, 2026 (the "**Updated CF Forecast**");

e) the Monitor's request to increase the amount of the Administration Charge;

f) the Monitor's request to extend the Stay Period to September 18, 2026;

g) the Monitor's request for approval of the conduct of the Monitor as set out in this Tenth Report; and

h) the Monitor's request for approval of the fees of the Monitor and Monitor's Counsel, as defined and set out in this Tenth Report.

27. This Tenth Report should be read in conjunction with the materials filed in the CCAA Proceedings.

TERMS OF REFERENCE AND DISCLAIMER

28. As at the date of this Tenth Report, a significant amount of the Requested Information (as defined in the ARIO) has not been provided by the Debtor Companies to the Monitor, despite the Monitor's repeated request to Management to provide the same. As such, the Monitor has provided observations and views to the best of its ability with the information that was provided.

29. In preparing this Tenth Report, A&M, in its capacity as the Monitor, has been provided with and has relied upon unaudited financial information and the books and records prepared by the A2A Group and has held discussions with certain members of the A2A Group's management and their respective counsel and certain directors. Except as otherwise described in this Tenth Report, in respect of the Debtor Companies' cash flow forecast:

    a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CASs**") pursuant to the Chartered Professional Accountants Canada Handbook (the "**CPA Handbook**") and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and

    b) some of the information referred to in this Tenth Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the CPA Handbook, has not been performed.

30. Future-oriented financial information referred to in this Tenth Report was prepared based on the Monitor's estimates and assumptions considering the Information available to the Monitor. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

31. Unless otherwise stated, all monetary amounts contained in this Tenth Report are expressed in Canadian dollars.

FACTUAL BACKGROUND

32. The Debtor Companies form part of a larger corporate group formerly engaged in real estate and land investment in both Canada and the United States, with parent entities registered in Singapore.

33. As further detailed in the Monitor's Previous Reports, the Debtor Companies and their parent entities are controlled by Foo Tiang Meng Dirk Robert (a/k/a "**Dirk Foo**").

34. The projects which are the subject of these CCAA Proceedings are as follows:

    a) Angus Manor Park ("**Angus Manor**"), advertised as a 167-acre residential development project located in Essa, Ontario (approximately 100 km north of Toronto). Angus Manor was purchased by the A2A Group for approximately $4.5 million and sold to Investors at an implied valuation of $23 million;

    b) The Trails of Fossil Creek ("**Fossil Creek**"), advertised as a 93-acre residential development project in Fort Worth, Texas. Fossil Creek was sold to Investors at an implied valuation of approximately USD $21 million. As discussed in the Third Report, the purchase price of the sale to Bloomfield Homes (as defined therein) in Fall 2024 was for approximately USD $4.3 million;

c) The Hills of Windridge ("**Windridge**"), advertised as a 415-acre residential development in the Dallas/Fort Worth area. Windridge was sold to Investors at an implied valuation of approximately USD $44.1 million;

d) Wingham, advertised as a 90-acre residential development project located in North Huron, Ontario (approximately 200 km west of Toronto). Wingham was sold to Investors at an implied valuation of approximately $11.5 million;

e) LHS, advertised as a 96-acre residential development project located in Goderich, Ontario (approximately 225 km west of Toronto). LHS was sold to Investors at an implied valuation of $8.7 million; and

f) Meaford, advertised as a 380-acre residential development project located in Meaford, Ontario (approximately 200 km north of Toronto). Meaford was sold to Investors at an implied valuation of approximately $22.8 million,

(collectively, the "**Projects**").

Angus Manor

35. Angus Manor consists of 167 acres of agriculturally zoned land over two parcels legally described as follows:

a) PT LT 28 CON 5 ESSA TWP AS IN RO346115 SECONDLY; TOWNSHIP OF ESSA, bearing parcel identification number ("**PIN**") 58103-0065 (LT); and

b) PT LT 28 CON 5 ESSA TWP; PT LT 29 CON 5 ESSA BEING PT 2 51R16117; TOWNSHIP OF ESSA, bearing PIN 58103-0059 (LT),

(collectively, the "**Angus Manor Lands**").

36. The A2A Group solicited investment in Angus Manor from both Canadian and Offshore Investors.

37. In Canada, the A2A Group solicited two rounds of investment with respect to the Angus Manor project via Canada's exempt markets. Canadian Investors were given the option of investing by either:

a) purchasing units in Angus LP at a price of $100 per unit. The funds raised by the sale of units in Angus LP were then used by Angus LP to purchase UFIs in the Angus Manor Lands from Angus Developments; or

b) purchasing 5% participating bonds from Angus Manor Capital at a purchase price of $1.00 per bond, with a minimum subscription required per Bond Investor of 6300 bonds ($6,300).

38. Overseas, UFIs in the Angus Manor Lands were marketed to Offshore Investors by Angus Developments for the purchase price of $10,000 per UFI.

39. Title records for the Angus Manor Lands show no encumbrances listed on title to the Angus Manor Lands. Title records of the Angus Manor Lands show that Angus Manor LP holds 49 UFIs, Angus LP holds 228 UFIs, Angus Developments holds 893 UFIs and Offshore Investors hold 1,130 UFIs.

40. While the title records show Angus LP holding 228 UFIs, based on the financial records, Angus LP should hold approximately 249 UFIs and based on the Investor Records, Angus LP should hold approximately 167 UFIs. As further detailed in the Third Report, this discrepancy is a direct result of the A2A Group's inadequate record keeping and failure to meet its obligations to Investors.

41. Contemporaneously, with the purchase of their UFIs, each of the Offshore Investors in Angus Manor executed a Deed of Covenant (the "**Angus Deed of Covenant**") which, among other things, appointed Angus Developments as "**Facilitator**" of the Angus Manor Lands. The Angus Deed of Covenant is attached hereto and marked as **Appendix "D"**.

42. Pursuant to Article 3.0 of the Angus Deed of Covenant, the Offshore Investors, among others, agree that, subject to specific contrary directions or instructions of

the UFI holders, Angus Developments, in its capacity of Facilitator (in such capacity, the "**Angus Facilitator**") is authorized at all times, for and on behalf of the UFI holders to, among other things:

a) execute, deliver and carry out all agreements which require implementation, delivery or execution on behalf of the UFI holders in connection with the Angus Manor Lands;

b) to commence or to defend on behalf of the UFI holders at the cost and expense of the UFI holders, any and all action and other proceedings pertaining to the Angus Manor Lands or the UFI holders; and

c) to distribute proportionately among the UFI holder's their respective shares in the net proceeds arising from the sale of the Angus Manor Lands, after payment of all expenses,

(among others, the "**Angus Facilitator Duties**").

43. Pursuant to Article 17.0 of the Angus Deed of Covenant, the UFI holders in Angus Manor agree to indemnify and pay, and hold forever harmless, among others, the Angus Facilitator, and their servants, against any loss from any claim, demand, or action that is brought against incurred by, among others, the Angus Facilitator or by reason of acts, omissions or alleged acts or omissions arising out of the activities of the Angus Facilitator on behalf of the UFI holders or in furtherance of the interest of the UFI holders, provided such acts, omissions or the alleged acts or omissions were performed by the Angus Facilitator in good faith and not performed or omitted fraudulently or as a result of willful misconduct or the gross negligence of the Angus Facilitator (the "**Angus Indemnification**").

44. Pursuant to Article 5.0 of the Angus Deed of Covenant, the UFI holders in Angus Manor agree that the Angus Facilitator may, in its discretion and on such terms and conditions as the Angus Facilitator deems appropriate, at any time and from time to time, but shall not be under any obligation, lend money to one or more of the UFI holders, upon such terms and conditions as are acceptable to the Angus Facilitator and the UFI holders, for the purposes of assisting one of more UFI holder

in satisfying and performing such UFI holders' financial obligations under the Angus Manor Deed of Covenant, including, without limitation, any financial obligations relating to the maintenance, construction, re-zoning or development of the Angus Manor Lands and that the Facilitator shall be entitled to repay the amount loaned out of such UFI holders proportionate share of the sales proceeds arising from the sale of the Angus Manor Lands. If the Angus Facilitator has made such a loan, it shall be a condition of any such loan to one or more UFI holders that the Angus Facilitator shall have priority of re-payment of principal and interest over any claim of such UFI holder(s) to, among other things, the sale proceeds arising from sale of the Angus Manor Lands, (the "**Angus Facilitator Lending Provision**").

Fossil Creek

45. Fossil Creek is advertised as a 93-acre residential development with advertised potential for 487 single detached family homes located in Fort Worth, Texas.

46. The A2A Group solicited investment in Fossil Creek from both Canadian and Offshore Investors.

47. In Canada, the A2A Group solicited investment with respect to the Fossil Creek by selling units in Fossil Trust at a price of $100 per unit. The proceeds from the purchase of units in Fossil Trust were subsequently used to purchase units in Fossil LP, which proceeds were used by Fossil LP to purchase UFIs in the Fossil Creek lands (the "**Fossil Creek Lands**") from Fossil Creek LLC.

48. Overseas, UFIs in the Fossil Creek Lands were marketed to Offshore Investors by Fossil Creek LLC for the purchase price of $10,000 per UFI.

49. Contemporaneously, with the purchase of their UFIs, each of the Offshore Investors in Fossil Creek executed a Deed of Covenant (the "**Fossil Deed of Covenant**") which, among other things, appointed Fossil Creek LLC as "**Facilitator**" of the Fossil Creek Lands. The Fossil Deed of Covenant is attached hereto and marked as **Appendix "E"**.

50. Pursuant to Article 3.1 of the Fossil Deed of Covenant, the Offshore Investors agree that, subject to specific contrary directions or instructions of the UFI holders, Fossil Creek LLC, in its capacity of Facilitator (in such capacity, the "**Fossil Facilitator**") is authorized at all times, for and on behalf of the UFI holders, to, undertake duties with respect to the Fossil Creek Lands which are substantially similar to the Angus Facilitator Duties (the "**Fossil Facilitator Duties**").

51. Pursuant to Article 17.2 of the Fossil Deed of Covenant, the UFI holders in Fossil Creek agreed to indemnify the Fossil Facilitator on substantially the same terms as the Angus Indemnification (the "**Fossil Indemnification**").

52. Pursuant to Article 5 of the Fossil Deed of Covenant, the UFI holders in Fossil Creek agree that the Fossil Facilitator may, in its discretion but shall not be under any obligation, lend money to one or more of the UFI holders, upon such terms and conditions as are acceptable to the Fossil Facilitator and the UFI holders, for the purposes relating to the maintenance or rezoning of the Fossil Creek Lands. The terms and conditions of any such loan shall be approved by the Co-owners by Special Resolution (as defined in the Fossil Deed of Covenant) and the Fossil Facilitator shall be entitled to repay itself out of the sales proceeds arising from the sale of the Fossil Creek Lands. If a Fossil Facilitator has made such an advance or advances, it shall be a condition of any such loan that the Fossil Facilitator shall have priority of re-payment of principal and interest over any claim of UFI holders to, among other things, the sale proceeds arising from sale of the Fossil Creek Lands, (the "**Fossil Facilitator Lending Provision**").

53. On December 15, 2014, the UFI holders of the Fossil Creek real property voted to transfer their UFIs to the Fossil Creek Trust (a US trust which is different and distinct from the Fossil Trust) with Dirk Foo as trustee. The UFI holders retain their beneficial interest in the Fossil Creek Lands and any proceeds from the sale thereof.

54. The Fossil Creek Trust subsequently further conveyed the majority of the Fossil Creek Lands to Bloomfield Homes LP without notice to the Offshore Investors (the "**Fossil Creek Sale**").

55. As of the date hereof, the Offshore Investors in Fossil Creek with whom the Monitor and Offshore Rep Counsel have established contact have reported that they have not received any communication pertaining to the Fossil Creek Sale nor any portion of their interests in the proceeds of the Fossil Creek Sale.

Windridge

56. Windridge is advertised as a 415-acre residential development with advertised potential for 487 single detached family homes located in Fort Worth, Texas.

57. The A2A Group solicited investment in Windridge from both Canadian and Offshore Investors.

58. In Canada, the A2A Group solicited investment with respect to Windridge by selling units in Windridge Trust at a price of $100 per unit. The proceeds from the purchase of units in Windridge Trust were subsequently used to purchase units in Windridge LP, which proceeds were used by Windridge LP to purchase UFIs in the Windridge lands (the "**Windridge Lands**") from Windridge LLC.

59. Overseas, UFIs in the Windridge Lands were marketed to Offshore Investors by Windridge LLC for the purchase price of $10,000 per UFI.

60. Contemporaneously, with the purchase of their UFIs, each of the Offshore Investors in Windridge, among others, executed a Deed of Covenant (the "**Windridge Deed of Covenant**") which, among other things, appointed Windridge LLC as "**Facilitator**" of the Windridge Lands. The Windridge Deed of Covenant is attached hereto and marked as **Appendix "F"**.

61. Pursuant to Article 3.1 of the Windridge Deed of Covenant, the Offshore Investors, among others, agree that, subject to specific contrary directions or instructions of the UFI holders, Windridge LLC, in its capacity of Facilitator (in such capacity, the "**Windridge Facilitator**") is authorized at all times, for and on behalf of the UFI holders, to, undertake duties with respect to the Windridge Lands which are substantially similar to the Angus Facilitator Duties (the "**Windridge Facilitator Duties**").

62. Pursuant to Article 17.2 of the Windridge Deed of Covenant, the UFI holders in Windridge agreed to indemnify the Windridge Facilitator on substantially the same terms as the Angus Indemnification (the "**Windridge Indemnification**").

63. Pursuant to Article 5 of the Windridge Deed of Covenant, the UFI holders in Windridge agreed to a Facilitator lending provision which is substantially similar to the Angus Facilitator Lending Provision, (the "**Windridge Facilitator Lending Provision**").

64. On April 8, 2014, the UFI holders of the Windridge real property voted to transfer their UFIs to the Hills of Windridge Trust (a US trust which is different and distinct from the Windridge Trust) with Dirk Foo as trustee. The UFI holders retain their beneficial interest in the Windridge Land and any proceeds from the sale thereof.

65. The Hills of Windridge Trust subsequently further conveyed a portion of the Windridge Lands to the Tarrant Regional Water District without notice to the Offshore Investors (the "**Water District Sale**").

66. As of the date hereof, the Offshore Investors in Windridge with whom the Monitor and Offshore Rep Counsel have established contact have reported that they have not received any portion of their interests in the proceeds of the Water District Sale.

Wingham

67. Wingham consists of a 90-acre land parcel and is legally described as follows:

> PT LTS 5 AND 6 CON 1 TURNBERRY BEING PT 1, 22R5848 EXCEPT PT 1, 22R5878; MORRIS-TURNBERRY/NORTH HURON
>
> (the "**Wingham Lands**").

68. UFIs in the Wingham Lands were sold to Offshore Investors by Wingham Developments for the purchase price of $10,000 per UFI.

69. Title records for the Wingham Lands show no encumbrances listed on title to the Wingham Lands. Title records for the Wingham Lands show that Wingham Developments holds 4 UFIs and Offshore Investors hold 1,148 UFIs.

70. Contemporaneously, with the purchase of their UFIs, each of the Offshore Investors in Wingham, among others, executed a Deed of Covenant (the "**Wingham Deed of Covenant**") which, among other things, appointed Wingham Developments as "**Facilitator**" of the Wingham Lands. The Wingham Deed of Covenant is attached hereto and marked as **Appendix "G"**.

71. Pursuant to Article 3 of the Wingham Deed of Covenant, the Offshore Investors, among others, agree that, subject to specific contrary directions or instructions of the UFI holders, Wingham Developments, in its capacity of Facilitator (in such capacity, the "**Wingham Facilitator**") is authorized at all times, for and on behalf of the UFI holders, to, undertake duties with respect to the Wingham Lands which are substantially similar to the Angus Facilitator Duties (the "**Wingham Facilitator Duties**").

72. Pursuant to Article 17 of the Wingham Deed of Covenant, the UFI holders in Wingham agreed to indemnify the Wingham Facilitator on substantially the same terms as the Angus Indemnification (the "**Wingham Indemnification**").

73. Pursuant to Article 5 of the Wingham Deed of Covenant, the UFI holders in Wingham agreed to a Facilitator lending provision which is substantially similar to the Fossil Facilitator Lending Provision, (the "**Wingham Facilitator Lending Provision**").

LHS

74. LHS consists of a 96-acre land parcel and is legally described as follows:

> LT 4 PL 538 GODERICH; LT 10 PL 538 GODERICH; PT OLD RAILWAY PART PL 538 GODERICH; PT LT 3 PL 538 GODERICH; PT LT 5 PL 538 GODERICH; PT LT 8 PL 538 GODERICH; PT LT 9 PL 538 GODERICH; PT LT 11 PL 538 GODERICH; PT LT 5 CON 1 GODERICH AS IN R194853; SAVE & EXCEPT HWP2187; MUNICIPALITY OF CENTRAL HURON ;
>
> (the "**LHS Lands**")

75. UFIs in the LHS Lands were sold to Offshore Investors by LHS Developments for the purchase price of $10,000 per UFI.

76. Title records for the LHS Lands show no encumbrances listed on title to the LHS Lands. Title records for the LHS Lands show LHS Developments holds 1 UFI, A2A Capital Services 21 Berhad ("**A2A Berhad**") holds 30 UFIs and Offshore Investors hold 839 UFIs.

77. Contemporaneously, with the purchase of their UFIs, each of the Offshore Investors in LHS, among others, executed a Deed of Covenant (the "**LHS Deed of Covenant**") which, among other things, appointed LHS Developments as "**Facilitator**" of the LHS Lands. The LHS Deed of Covenant is attached hereto and marked as **Appendix "H"**.

78. Pursuant to Article 3 of the LHS Deed of Covenant, the Offshore Investors, among others, agree that, subject to specific contrary directions or instructions of the UFI holders, LHS Developments, in its capacity of Facilitator (in such capacity, the "**LHS Facilitator**") is authorized at all times, for and on behalf of the UFI holders, to, undertake duties with respect to the LHS Lands which are substantially similar to the Angus Facilitator Duties (the "**LHS Facilitator Duties**").

79. Pursuant to Article 17 of the LHS Deed of Covenant, the UFI holders in LHS agreed to indemnify the LHS Facilitator on substantially the same terms as the Angus Indemnification (the "**LHS Indemnification**").

80. Pursuant to Article 5 of the LHS Deed of Covenant, the UFI holders in LHS agreed to a Facilitator lending provision which is substantially similar to the Fossil Facilitator Lending Provision, (the "**LHS Facilitator Lending Provision**").

Meaford

81. Meaford consists of a 380-acre land parcel and is legally described as follows:

> PT RDAL BTN LT 9 AND LT 10 ST. VINCENT CLOSED BY R252709; PT LT 9-10 CON 2 ST. VINCENT PT 1 – 16, 18, 31 – 46, 49 – 58, 64 & 65, 67 – 78, 80 – 82, BLK A, GORDON ST, SUZANNE ST, MICHELE AV & BURNETT ST, RD36; PT 6 & 9 16R2726; PT 16 – 37 RD101; PT 38 – 82 & PT 91 RD101; PT 1 – 30 & 34 – 38 RD108; PT 1 – 22 RD111 & AS IN R252710 (FOURTHLY) EXCEPT PT 1, 2, & 3 AS IN R559723; S/T R252710; PT LT 9 CON 1 ST. VINCENT; PT LT 9 CON 2 ST.

VINCENT AS IN R253576 EXCEPT PT 1 16R3404; MUNICIPALITY OF MEAFORD ;

(the "**Meaford Lands**" and together with the Angus Manor Lands, the Fossil Creek Lands, the Windridge Lands, the Wingham Lands and the LHS Lands, the "**Lands**").

82. UFIs in the Meaford Lands were sold to Offshore Investors by Meaford Developments for the purchase price of $10,000 per UFI.

83. Title records for the Meaford Lands show no encumbrances listed on title to the Meaford Lands. Title records for the Meaford Lands show that Meaford Developments holds 49 UFIs and Offshore Investors holds 2,231 UFIs.

84. Contemporaneously, with the purchase of their UFIs, each of the Offshore Investors in Meaford, among others, executed a Deed of Covenant (the "**Meaford Deed of Covenant**" and together with the Angus Deed of Covenant, the Fossil Deed of Covenant, the Windridge Deed of Covenant, the Wingham Deed of Covenant and the LHS Deed of Covenant, the "**Deeds of Covenant**") which, among other things, appointed Meaford Developments as "**Facilitator**" of the Meaford Lands. The Meaford Deed of Covenant is attached hereto and marked as **Appendix "I"**.

85. Pursuant to Article 3 of the Meaford Deed of Covenant, the Offshore Investors, among others, agree that, subject to specific contrary directions or instructions of the UFI holders, Meaford Developments, in its capacity of Facilitator (in such capacity, the "**Meaford Facilitator**" and together with the Angus Facilitator, the Windridge Facilitator, the Fossil Facilitator, the Wingham Facilitator and the LHS Facilitator, the "**Project Facilitators**") is authorized at all times, for and on behalf of the UFI holders, to, undertake duties with respect to the Meaford Lands which are substantially similar to the Angus Facilitator Duties (the "**Meaford Facilitator Duties**" and together with the Angus Facilitator Duties, the Windridge Facilitator Duties, the Fossil Facilitator Duties, the Wingham Facilitator Duties and the LHS Facilitator Duties, the "**Facilitator Duties**").

86. Pursuant to Article 17 of the Meaford Deed of Covenant, the UFI holders in Meaford agreed to indemnify the Meaford Facilitator on substantially the same terms as the Angus Indemnification (the "**Meaford Indemnification**" and together with the Angus Indemnification, the Fossil Indemnification, the Windridge Indemnification, the Wingham Indemnification and the LHS Indemnification, the "**Facilitator Indemnification**").

87. Pursuant to Article 5 of the Meaford Deed of Covenant, the UFI holders in Meaford agreed to a Facilitator lending provision which is substantially similar to the Fossil Facilitator Lending Provision, (the "**Meaford Facilitator Lending Provision**" and together with Angus Facilitator Lending Provision, the Fossil Facilitator Lending Provision, the Windridge Facilitator Lending Provision, the Wingham Facilitator Lending Provision and the LHS Facilitator Lending Provision, the "**Facilitator Lending Provisions**").

Special Powers of Attorney

88. The Monitor understands that contemporaneously with the purchase of the UFIs in the Lands for the six Projects, the Offshore Investors granted the respective Facilitator a special power of attorney granting such Facilitator with the "power to sell, transfer, assign, lease, ***or to otherwise deal in any way whatsoever*** with [the UFI holders'] interest in [the Lands] or any part thereof including to execute, deliver, convey, enter into agreements, documents and other instruments pertaining to the zoning, rezoning, severance, development, re-development of [the Lands] or any part thereof and to release any and all possessory and proprietary rights as to [the Lands] or any part thereof as may be deemed necessary [emphasis added]," (the "**Special POAs**").

89. Attached hereto and marked as **Appendix "J"** is a sample Special POA granted by the Offshore Investors with respect to their interests in certain of the Lands.

Project Facilitators' Failures

90. As further detailed in the Monitor's Previous Reports, the Debtor Companies, including the Project Facilitators, failed to fulfill their contractual arrangements

with the Investors, including the Facilitator Duties (including those not listed in paragraph 42 above) by, among other things:

a) failing to maintain accurate Investors records, including on title to the Angus Manor Lands;

b) failing to communicate with the Investors in a timely manner;

c) allowing certain of the Debtor Companies to be struck due to failure to file annual returns;

d) failing to distribute the proceeds of the sale of any of the Lands, including the proceeds of the Fossil Creek Sale and the Water District Sale;

e) transferring Fossil LP's legal interest in the Fossil Creek Lands to Dirk Foo without properly informing the Canadian Investors of such transfer;

f) transferring Windridge LP's legal interest in the Windridge Lands to Dirk Foo without properly informing the Canadian Investors of such transfer; and

g) failing to distribute any of the proceeds of the Fossil Creek Sale or the Water District Sale to the Investors.

91. In the January Reasons, this Honourable Court accepted the Monitor's evidence that the Debtor Companies and Management are "either incapable of or unwilling to undertake the fiduciary responsibilities to act as a 'Facilitator' or 'Trustee' in the realization and distribution process when [the Projects] are monetized"[4], stating that that "the [Debtor Companies'] dilatory recordkeeping and general disregard for [I]nvestor rights mean that the [Debtor Companies'] will not be able (even if they

[4] *Angus* at para 42.

were willing) to conduct a realization and distribution process that is fair to all investors."[5]

ACTIVITIES OF THE MONITOR

92. Since the filing of the Ninth Report, the Monitor's activities to date have included the following:

a) attending the Court hearing on January 19, 2026;

b) preparing and filing this Tenth Report;

c) engaging with Cassels Brock & Blackwell LLP ("**Cassels**"), the Monitor's Canadian counsel, and Reed Smith LLP ("**Reed Smith**"), the Monitor's US counsel (collectively, the "**Monitor's Counsel**"), Representative Counsel and the Monitor's consultant Azimuth Risk Management Inc. ("**Azimuth**" or the "**Assistants**") regarding various matters pertaining to these CCAA Proceedings;

d) conducting meetings and communication with Pillar Capital Corp., the Interim Lender;

e) communicating with Canadian Rep Counsel and Offshore Rep Counsel regarding the relief sought in this Tenth Report and coordinating communication to the Offshore Investors (as described herein);

f) commissioning appraisals from Cushman & Wakefield ULC for the Additional Project Lands;

g) engaging meetings with prospective sales agents for the Additional Projects Sale Process;

h) entering into listing agreements for the Additional Project Lands;

[5] *Angus* at para 43.

i) conducting meetings with Azimuth regarding the status of the Angus Lands Official Plan and instructing a representative of Azimuth to attend a public open house on April 8, 2026 hosted by the Township of Essa; and

j) reviewing various investor communications.

93. As at the date of this Report, the Monitor has received no response from Miles Davison LLP or Bennett Jones LLP, in regard to the Investor Communication Request Letter (as defined in the Seventh Report). The Monitor's Investor Communication Request Letter requests that Canadian Debtors' counsel (Miles Davison LLP) and US LLCs' counsel (Bennett Jones LLP) request that their clients issue correspondence to all Offshore Investors at their current contact information, advising them of the initiation and status of the CCAA Proceedings, and to advise the Monitor once such correspondence has been issued. On October 27, 2025, Bennett Jones LLP advised the Monitor that their client provided A2A Capital Management Pte Ltd with the Investor Communication Request Letter on July 25, 2025, but to date, the Monitor has no knowledge of it being sent to all Offshore Investors.

US Chapter 15 Proceedings

94. On November 20, 2024, in accordance with the ARIO, the Monitor's US Counsel sought from the US Bankruptcy Court, amongst other things, a preliminary injunction and temporary restraining order, recognizing the Initial Order on a preliminary basis and granting interim recognition of the Monitor as "Foreign Representative".

95. On December 20, 2024, the US Bankruptcy Court entered a final order granting recognition to a foreign main proceedings and additional relief granting recognition of the Monitor as "Foreign Representative".

US Chapter 11 Proceedings Update

96. On March 17, 2025, the US LLCs each filed voluntary petitions for relief under chapter 11 of Title 11 of the US Bankruptcy Code (the "**Chapter 11 Cases**") in the US Bankruptcy Court. The Chapter 11 Cases are not jointly administered. On the same day, the US LLCs each filed a Motion for Entry of an Order (i) Confirming the Automatic Stay Applied to All Assets of the Debtors Wherever Located; (ii) Extending the Automatic Stay to Debtor Property Held in the Name of Nondebtor Entities, or (iii) in the Alternative Imposing the Automatic Stay to Debtor Property Held in the Name of Nondebtors (the "**Motion**").

97. On April 4, 2025, counsel for the Hills of Windridge, LP and Trails of Fossil Creek Properties, LP filed an objection to the Motion. An evidentiary hearing with respect to the Motion was heard on June 3, 2025 (the "**Motion Hearing**") in the US Bankruptcy Court in the Northern District of Texas. The Monitor appeared and provided sworn testimony remotely via Webex at the Motion Hearing. On June 5, the US Bankruptcy Court issued an oral ruling denying the relief requested in the Motion without prejudice.

98. Following the Motion Hearing, the Monitor and Reed Smith commenced the process of re-evaluating the US LLCs claims against, among others, Trails of Fossil Creek Properties LP and Hills of Windridge LP (the "**Defendants**") that may be asserted in the Chapter 11 Cases, or otherwise.

99. Shortly thereafter Leave to Appeal was granted for certain of the Appeal Application and the Fossil Creek and Windridge entities continued participation in these CCAA Proceedings was uncertain.

100. In light of this uncertainty, the Monitor and Monitor's Counsel were awaiting Appeal Reasons to complete the document production provided by the Subpoena Respondents (as defined in the Eighth Report) and to initiate any further claims against the Defendants in Texas. Now that the Appeals have been dismissed, the Monitor intends to vigorously pursue the necessary litigation that is the subject of

the Texas Plan, whether as originally contemplated or amended. Given the complexity of the US corporate governance structures and transactions which have occurred to date, the Monitor expects this process could take multiple months.

Angus Manor Sale Process Update

101. The Monitor's sales advisor, Colliers, launched the listing for the Angus Manor Lands without a dollar value on May 2, 2025.

102. Colliers has advised the Monitor that parties have expressed interest in the Angus Manor Lands. As discussed in the Monitor's Previous Reports, in discussion with the Township of Essa, the Monitor has been made aware that a draft Official Plan review for potential land rezonings was expected to be released in the near term.

103. On April 8, 2026, a representative of Azimuth attended a public open house (the "**Public Open House**") hosted by the Township of Essa and discussed the timing of a draft Official Plan related to the Angus Lands with the Township of Essa. While the Monitor had hoped for further information at the Public Open House, there was no indication of an Official Plan Amendment or a Zoning By-law Amendment at the meeting. Thus, the decision of timing and details regarding an Official Plan Amendment remains uncertain.

104. Subject to (i) ongoing discussion between the Assistants and employees of the Township of Essa and (ii) the advice of Colliers, in consultation with Representative Counsel, the Monitor will continue to evaluate the monetization strategy.

Additional Projects Sale Process

105. On January 19, 2026, the Court approved the Additional Project Sale Process as described in the Ninth Report to be implemented in conjunction with a sale advisor.

106. Following Court approval of the Additional Project Sale Process, the Monitor solicited proposals from qualified real estate sale advisors to act as listing agent for one or multiple of the Additional Project Lands. The Monitor received four (4)

proposals and evaluated the proposals in consultation with Azimuth and the Monitor's Canadian counsel.

107. The Monitor selected Cushman & Wakefield Waterloo Region Ltd. ("**C&W WR**") to act as listing agent for the LHS Lands and Wingham Lands. The Monitor and C&W WR entered into two (2) separate listing agreement on May 4, 2026 in relation to each of the LHS Lands and Wingham Lands. The key terms of the listing agreements are as follows:

a) **Term:** six (6) month listing term commencing on the date of acceptance of the listing agreement;

b) **Commission:** 3.5% payable upon the successful completion of the sale of the property;

c) **Marketing Costs:** advertising and promotional materials, as approved by the Monitor, shall be prepared, published and distributed at the expense of the listing agent;

d) **Court Approval:** any proposed transaction will be subject to approval of the Court;

e) **"As Is, Where Is":** the properties shall be marketed on an "as is, where is" basis; and

f) **Termination:** the Monitor may terminate the listing agreements upon 10 days' written notice.

108. The Monitor selected Cushman & Wakefield ULC ("**C&W ULC**") and Forest Hill Real Estate Collingwood ("**FH**") to act as co-listing agents of the Meaford Lands. The Monitor, C&W ULC and FH entered into a listing agreement on May 4, 2026. The key terms of the listing agreement are as follows:

a) **Term:** six (6) month listing term commencing on the date of acceptance of the listing agreement;

b) **Commission:** 5.0% payable upon the successful completion of the sale of the property to be shared equally with C&W ULC and FH;

c) **Marketing Costs:** advertising and promotional materials, as approved by the Monitor, shall be prepared, published and distributed at the expense of the listing agent;

d) **Court Approval:** any proposed transaction will be subject to approval of the Court;

e) **"As Is, Where Is":** the properties shall be marketed on an "as is, where is" basis; and

F) Termination: the Monitor may terminate the listing agreements upon 10 days' written notice.

EXTENSION OF ADMINISTRATION AND INTERIM LENDER'S CHARGES

109. The Court has granted the following charges over the Property in the following relative priorities:

a) First – the Interim Lender's Charge to a maximum amount of $1,500,000 plus the amount of all interest, fees and expenses in respect of the principal amount advanced with respect to the Interim Financing; and

b) Second – a subordinated Administration Charge, to a maximum of $3,000,000;

(collectively, the "**Charges**").

110. At present, the Charges only attach to the following property of the Debtor Companies:

a) the UFIs held by Angus GP, Angus Manor Developments, Angus Manor Capital and Angus Manor GP in the Angus Manor Lands;

b) any interest, whether beneficial or legal, held by Fossil GP and Fossil Creek LLC in the sale proceeds from the Fossil Creek Sale resulting from Fossil GP and Fossil Creek's LLC UFIs in the Fossil Creek Lands;

c) any interests, whether beneficial or legal, held by Windridge GP and Windridge LLC in the Windridge Lands or proceeds from the Water District Sale resulting from Windridge GP and Windridge LLC's UFIs in the Fossil Creek Lands;

d) any property of A2A Developments, Serene Canada., and A2A CSC;

e) the four (4) UFIs held by Wingham Developments in the Wingham Lands;

f) the one (1) UFI held by LHS Developments in the LHS Lands;

g) the forty-nine (49) UFIs held by Meaford Developments in the Meaford Lands; and

h) units in limited partnerships through which the interest of Canadian Investors in the Angus Manor, Fossil Creek and Windridge projects are held indirectly by certain A2A Group entities.

111. The Charges do not currently extend to any interests of the Offshore Investors in the Lands or any interest that the Offshore Investors have in the proceeds from any sale of the Lands. On this basis and under the current structure of the Charges, the Offshore Investors are not bearing any of the cost of the CCAA proceedings, notwithstanding that the Monitor has engaged with this stakeholder group and has engaged in activities for which they directly benefit.

112. As there are no Canadian Investors in the Additional Projects and the Additional Project Entities hold only a nominal amount of UFIs of the Additional Project Lands, the Charges currently do not extend to the majority of the UFIs in the Additional Projects, notwithstanding that the Offshore Investors will be the stakeholder group that benefits the most from the Additional Project Sales Process.

113. Conversely, the Canadian Investors currently bear the majority of cost of these CCAA Proceedings. The Charges extend only to the interests of the Canadian Investors, in the Angus Manor Lands, the Windridge Lands and the Fossil Creek Lands, and any proceeds of sale thereof, because the Canadian Investors' interests in Angus Manor, Fossil Creek and Windridge are legally held through certain of the CCAA debtors holding legal title to certain of those UFIs. Therefore, while all of the Canadian Investors interests are treated as "property of the Debtor Companies" for the purpose of attaching to the Charges, none of the Offshore Investors interests are charged by the statutory Charges.

114. The Monitor is seeking a declaration from this Honourable Court to that the Offshore Investors interests in the Lands, and the proceeds of any sale thereof, arising from the Offshore Investors' UFIs in the Lands should be treated as "property of the Debtor Companies" and approval to extend the Charges to attach to all of the investors' interests who are benefitting from these CCAA Proceedings, including Offshore Investors' interests, whether beneficial or legal, in the Lands and the proceeds from any sale of the Offshore Investors UFIs in the Lands (the "**Charge Extension**").

115. The Monitor is of the view that the Charge Extension meets the objectives of the CCAA in that it is an equitable step to ensure that all investors are sharing the costs of these proceedings. The Monitor also notes the following:

a) the Facilitator Duties include those activities which the Monitor has undertaken, or will undertake, in the course of these CCAA Proceedings including:

i. the execution and carrying out of agreements on behalf of the Offshore Investors for the purposes of marketing the Lands;

ii. engaging in and defending actions in these CCAA Proceedings and pursuant to the Texas Plan on behalf of, and for the benefit of, all holders of UFIs in the Lands, including the Offshore Investors; and

iii. the future distribution of the proceeds of any sale of the Lands proportionately among all of the holders of UFIs in the Lands after the payment of expenses;

b) pursuant to the Facilitator Lending Provisions, the Project Facilitators may advance funds to the holders of the UFIs in the Lands and, when such advances are made the Project Facilitators are entitled to receive repayment of those advances from any proceeds of the sale of the Lands in priority to any UFI holders' claim on their proportionate interest in such sale proceeds;

c) pursuant Facilitator Indemnifications, the holders of the UFIs in the Lands agree to indemnify and pay the Project Facilitators, and their servants, against any loss from any claim, demand, or action that is brought the Project Facilitators or by reason of acts arising out of the activities of the Project Facilitators on behalf of the UFI holders or in furtherance of the interest of the UFI holders; and

d) pursuant to the Special POAs, the Project Facilitators have the power to deal in any way whatsoever with the UFI holders' interest in the Lands, including to release any and all possessory and proprietary rights as to the Lands or any part thereof as the Project Facilitators may be deem necessary.

116. Due to the Initial Order and the ARIO, among other things, granting the Monitor the Enhanced Powers and declaring that Management shall have no further power or authority to direct the Debtor Companies, the Monitor, on behalf of the Debtor Companies, has essentially stepped into the shoes of the Project Facilitators as a successor in rights under the Deeds of Covenant and the Special POAs.

117. In light of the contractual rights of the Project Facilitators in and to Offshore Investors interests in the projects arising from the Offshore Investors' UFIs, the Monitor believes that it is reasonable for the Offshore Investors' UFIs in the Lands

and the Offshore Investors' interest and rights, whether legal or beneficial, in and to the proceeds of any sale of the Lands, be treated as "property of the Debtor Companies" for the purposes of securing the professional fees of the Monitor, Monitor's Counsel and Assistants, and Representative Counsel (the "**Insolvency Professionals**").

118. As noted above, the Monitor, on behalf of the Project Facilitators, has been, and will continue, to discharge the Facilitator Duties under the Deeds of Covenant in these CCAA Proceedings for the benefit of, among others, the Offshore Investors. The Monitor's discharge of the Facilitator Duties for the benefit of the Offshore Investors is essentially an in-kind loan advanced by the Monitor to the Offshore Investors in the amount of the Insolvency Professionals unpaid professional fees. Pursuant the Facilitator Lending Provisions in the Deeds of Covenant, such in-kind loan is already secured by a priority interest in the Offshore Investors' interest and rights in and to their proportionate share of the proceeds from the sale of the Lands, or any portion thereof.

119. Finally, the power granted to the Project Facilitators by the Special POAs include the power to release any and all possessory and proprietary rights of the Offshore Investors as to the Lands or any part thereof as the Project Facilitators may deem necessary. The Monitor, on behalf of the Project Facilitators believes that is necessary to charge the Offshore Investors' UFI in the Lands and the Offshore Investors proportionate interest in the proceeds on any sale of the Lands with the Charges in order to give effect to a purposive interpretation of the CCAA.

120. On April 13, 2026, the Monitor, through its consultant Azimuth, distributed a letter to the Offshore Investors outlining the Monitor's intentions to seek Court approval for the Existing Charge Extension, requesting that the Offshore Investors provide a vote either in favour or not in favour of the Existing Charge Extension (the "**April 13 Letter**"). A copy of the April 13 Letter is appended hereto as **Appendix "K"**.

121. On April 20, 2025, Offshore Rep Counsel, through Azimuth, distributed a letter to the Offshore Investors providing further information regarding the proposed

Existing Charge Extension and requesting responses to vote either in favour or not in favour (the "**April 20 Letter**"). A copy of the April 20 Letter is appended hereto as **Appendix "L"**.

122. As at May 7, 2026, 408 Offshore Investors had responded to Azimuth with 407 Offshore Investors responding in support of the Existing Charge Extension and one Offshore Investor responding in opposition. In supporting the Existing Charge Extension, it was noted by one Offshore Investors who requested that the Monitor ensure that professional fees and interim financing to be tracked and allocated on a fair and reasonable basis.

123. The table below provides a summary of the responses received from the Offshore Investors:

	Support		**Oppose**		**% in Support**	
	Units	*Dollars*	*Units*	*Dollars*	*Units*	*Dollars*
Angus Manor	184.00	$1,815,325	4.00	$40,000	98%	98%
Windridge	648.50	$6,314,000	0.00	$0	100%	100%
Fossil Creek	252.50	$2,522,975	0.00	$0	100%	100%
Meaford	287.35	$2,876,022	0.00	$0	100%	100%
Wingham	199.40	$1,992,100	0.00	$0	100%	100%
LHS	103.50	$1,038,200	0.00	$0	100%	100%

Note: *The units and dollars in the table above are as provided for by the Offshore Investors and the Monitor has not verified the accuracy or completeness of the information (which the Monitor would intend to do so by way of Court-ordered claims process at a later date). The dollars for Angus Manor, Meaford, Wingham and LHS are in Canadian dollars and for Windridge and Fossil Creek are in US dollars.*

124. It is the Monitor's respectful view that the Charge Extension is fair and reasonable for the following reasons:

a) there is currently an imbalance in risk allocation of the Charges borne by the Canadian Investors, as the Canadian Investors do not have investments in the Additional Projects, and the Offshore Investors exclusively hold the interests in the Additional Projects;

b) the Monitor has undertaken efforts with respect to the Additional Projects (*e.g.*, engaging listing agents and commencing marketing efforts to monetize the Additional Lands);

c) the Offshore Investors who have responded to the April 13 Letter have overwhelmingly supported the Charge Extension;

d) irrespective of what property is subject to the Charges, the ARIO allows the costs of these CCAA Proceedings to be allocated "among any parties who have benefited from these CCAA Proceedings", granting the Charge Extension now instead of allocating the costs of these proceedings in the future will have the same substantive result, provided all the Projects are monetized. The only practical difference is that the Charge Extension will avoid the administrative cost of the Monitor returning to Court to seek an allocation order in the future;

e) the contractual rights of the Project Facilitators pursuant to the Deeds of Covenant and the Special POA empower the Monitor, on behalf of the Project Facilitators to charge the Offshore Investors' UFIs in the Lands and the Offshore Investors interests in and rights to a proportionate share of the proceeds of any sale of the Lands;

f) the Interim Lender has indicated that it will not advance any more funds to the Monitor on behalf of the Debtor Companies unless the Monitor is able to secure a charge over the Offshore Investors' UFIs in the Angus Manor Lands and the Additional Project Lands. The Interim Lending Facility has been drawn in full. The Monitor, on behalf of the Debtor Companies has no other source of funds until the conclusion of the Angus Manor Sale Process and the Additional Project Sale Process, which could take several weeks or even months. Absent the Charge Extension, the Monitor, on behalf of the Debtor Companies (including the Development Vehicles) will struggle to obtain the necessary

liquidity to monetize the Lands for the benefit of all stakeholders including the Offshore Investors; and

g) the Charge Extension is required to protect the beneficiaries of the Administrative Charge (the "**Insolvency Professionals**"), and the continued involvement of the Insolvency Professionals is necessary to ensure the successful resolution of the Debtor Companies' insolvency.

125. The Monitor notes that while it would prefer to have a more complete database of contact information for Offshore Investors, the apparent inability or unwillingness of A2A Capital Management Pte Ltd to distribute the Investor Communication Request Letter (which it has had since July 25, 2025) to the respective clientele, has left the Monitor to undertake its best efforts to communicate with Offshore Investors with the information it has available.

CASH FLOW RESULTS & VARIANCE EXPLANATIONS

126. In the Ninth Report, the Monitor prepared a weekly cash flow forecast for the 17-week period from January 3, 2026 to May 1, 2026, using the probable and hypothetical assumptions set out in the notes thereto.

127. Actual cash flows incurred for the 12-week period through May 1, 2026 are as follows:

A2A Group
12 Week Cash Flow Forecast Variance
unaudited, CDN $000s (USD amounts translated at 1.37)

	Forecast	Actual	Variance
Bank Interest	-	0.9	**0.9**
Other Receipts	-	5.6	**5.6**
Total Receipts	**-**	**6.5**	**6.5**
Other Disbursements	(20.3)	(20.3)	-
Professional Fees	-	(19.6)	**(19.6)**
Professional Fee Disbursements	-	(3.3)	**(3.3)**
Professional Fee Disbursements	-	(1.1)	**(1.1)**
Total Disbursements	**(20.3)**	**(44.3)**	**(24.0)**
Professional Fees	(343.1)	(146.3)	**196.8**
Professional Fee Disbursements	(10.2)	(0.5)	**9.7**
Sales Tax	(14.5)	(7.1)	**7.4**
Contingency	(36.7)	-	**36.7**
Total Accrued Disbursements	**(404.5)**	**(153.9)**	**250.6**
Net Cash Flow	**(424.8)**	**(191.7)**	**233.1**
Opening Cash	120.4	120.4	-
Interim Financing	-	-	-
Administration Charge	404.5	153.9	**(250.6)**
Net Cash Flow	(424.8)	(191.7)	**233.1**
Ending Cash	**100.1**	**82.6**	**(17.5)**
Opening Administration Charge	2,438.5	2,434.9	**(3.6)**
Allocated (Accrued)	404.5	153.9	**(250.6)**
Closing Administration Charge	**2,843.0**	**2,588.8**	**(254.2)**
Opening Interim Financing	(1,500.0)	(1,500.0)	-
Interim Financing Funded	-	-	-
Interim Financing Fees	-	-	-
Interest Reserve & Fee Holdback	-	-	-
Closing Interim Financing	**(1,500.0)**	**(1,500.0)**	**-**

128. Accruals for professional fees and related expenses were lower than forecast as a result of, among other things, the absence of the decision regarding the Appeals and the slow progression on the Angus Manor Sale Process (related to the delay to the release of the draft Official Plan Amendment). The actual professional fees and expenses disbursed relate to the Monitor's Assistants attending in-person meetings related to the Angus Manor Official Plan Amendment.

UPDATED CASH FLOW FORECAST

129. The Monitor has prepared a weekly Updated CF Forecast for the 20-week period from May 2, 2026 to September 18, 2026 (the "**Forecast Period**"), using the probable and hypothetical assumptions set out in the notes to the Updated CF

Forecast. A copy of the Updated CF Forecast, together with a summary of the assumptions are attached hereto as **Appendix "M"**.

130. The Updated CF Forecast is summarized below:

A2A Group
20 Week Cash Flow Forecast
for the period ending September 18, 2026
unaudited, CDN $000s (USD amounts translated at 1.37)

	Total
Other Receipts	-
Total Receipts	-
Other Disbursements	-
Total Disbursements	-
Professional Fees	**(505.5)**
Professional Fee Disbursements	**(15.3)**
Sales Tax	**(23.1)**
Contingency	**(54.4)**
Total Accrued Disbursements	**(598.3)**
Net Cash Flow	**(598.3)**
Opening Cash	**82.6**
Interim Financing	-
Administration Charge	**598.3**
Net Cash Flow	**(598.3)**
Ending Cash	**82.6**
Opening Administration Charge	**2,588.8**
Allocated	**598.3**
Closing Administration Charge	**3,187.1**
Opening Interim Financing	**(1,500.0)**
Interim Financing Funded	-
Interim Financing Fees	-
Interest Reserve & Fee Holdback	-
Closing Interim Financing	**(1,500.0)**

131. The Updated CF Forecast assumes $505,000 in professional fee accrual, a 3% disbursement accrual and a 10% contingency accrual are forecast over the 20-week period. Details of the underlying hypothetical assumptions are included at **Appendix "M"** hereto.

132. Pursuant to section 23(1)(b) of the CCAA, and in accordance with the Canadian Association of Insolvency and Restructuring Professionals' Standards of Professional Practice No. 9, the Monitor reports as follows:

a) the Updated CF Forecast for the purpose described in the notes to the Updated CF Forecast, using probable and hypothetical assumptions as set out in the notes. As previously discussed, Management has not prepared the Updated CF Forecast, and due to the uniqueness of the matters, the Monitor prepared initial Updated CF Forecast with review and commentary from the professional advisors;

b) the Monitor's review of the Updated CF Forecast consisted of inquiries, analytical procedures, and discussions regarding information supplied to it by Management and various legal counsel and advisors based on the Information received (Management has provided some but not all relevant financial information). Since hypothetical assumptions need not be supported, the procedures with respect to them were limited to evaluating whether those assumptions were consistent with the purposes of the Updated CF Forecast;

c) based on the Monitor's preliminary review of the Updated CF Forecast, nothing has come to its attention that causes A&M to believe that, in all material respects:

   i. the hypothetical assumptions are inconsistent with the purpose of the Updated CF Forecast;

   ii. as at the date of this Tenth Report, the probable assumptions developed by the Monitor are not suitably supported and consistent with the basis for the professional fees, on the basis of the ARIO, or do not provide a reasonable basis for the Updated CF Forecast, given the hypothetical assumptions; or

   iii. the Updated CF Forecast does not reflect the probable and hypothetical assumptions; and

d) since the Updated CF Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be

material. Accordingly, A&M does not express any assurance as to whether the Updated CF Forecast will be accurate. A&M does not express any opinion or other form of assurance with respect to the accuracy of any financial information presented in this Tenth Report, or relied upon by A&M in preparing this Tenth Report.

133. The Updated CF Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

ADMINISTRATION CHARGE

134. In addition to the Charge Extension, the Monitor is seeking to amend the Charges by increasing the total amount of the Administration Charge from $3,000,000 to $3,500,000 (the "**Increased Administration Charge**").

135. The Monitor has worked with Monitor's Counsel and Representative Counsel to estimate the quantum of the Increased Administration Charge and is satisfied that the Increased Administration Charge is fair and reasonable in the circumstances of the CCAA Proceeding for the following reasons:

a) the beneficiaries of the Administration Charge include the Monitor, Monitor's Counsel and Assistants, and Representative Counsel. As demonstrated by contents of the Monitor's Previous Reports, these CCAA Proceedings require a high degree of involvement, expertise and advice from beneficiaries of the Administration Charge. It is appropriate in the circumstances to grant the Increased Administration Charge to ensure the beneficiaries of the Administration Charge are able to continue to support the administration of these CCAA Proceedings;

b) since the Appeals have been dismissed, it is uncertain what, if any, level of support the A2A Group will provide the Monitor. Thus, the increase to the Increased Administration Charge considers the potential actions

the Monitor may need to take to properly administer the respective estates;

c) the size and complexity of the CCAA Proceedings continue to increase and expand as additional information is provided, new entities and projects are uncovered and complex corporate governance structures and sale transactions are exposed;

d) there is no unwarranted duplication of roles; and

e) the Monitor has also compared the quantum of the proposed Increased Administration Charge with those in other recent CCAA proceedings and is satisfied that it is commercially reasonable and no 'off-market' in these circumstances.

136. For the forgoing reasons, it is the respectful view of the Monitor that the quantum of the proposed Increased Administration Charge is reasonable and appropriate in these circumstances, having regard to the scale and complexity of these CCAA Proceedings, the services to be provided by the beneficiaries of the Administration Charge and the size of similar charges approved in similar proceedings.

EXTENSION TO THE STAY OF PROCEEDINGS

137. Pursuant to the ARIO, the stay of proceedings will expire on May 31, 2026. The Monitor is seeking the stay extension to September 18, 2026 (the "**Stay Extension**").

138. The Monitor supports the Stay Extension for, among others, the following reasons:

a) it will afford the Monitor sufficient time to:

i. continue to advance the Texas Plan to gain control of the Texas Lands and the proceeds of the Water District Sale and the Fossil Creek Sale and vigorously pursue the necessary litigation that is the subject of the Texas Plan;

ii. continue the marketing of the Angus Manor Lands and the Additional Projects Lands; and

iii. with the assistance of Offshore Rep Counsel, attempting to contact Offshore Investors to seek information relevant to the proceedings;

b) with the benefit of the Increased Administration Charge, there will be sufficient coverage afforded to the professionals; and

c) the Monitor does not believe any creditor of the Debtor Companies will be materially prejudiced by the proposed Stay Extension.

APPROVAL OF THE MONITOR'S ACTIONS, CONDUCT AND ACTIVITIES

139. The Court previously approved the actions, conduct and activities of the Monitor set out in the Monitor's Previous Reports.

140. It is the respectful view of the Monitor that the actions, conduct and activities of the Monitor as described in this Tenth Report have been reasonable and appropriate in the circumstances.

APPROVAL OF PROFESSIONAL FEES AND EXPENSES

141. The Monitor and Monitor's Counsel have now rendered their invoices for their respective fees and disbursements for services in connection with the CCAA Proceedings (the "**Invoices**") and the Monitor is now seeking approval of the Invoices from this Honourable Court. The Court previously approved the prior invoices of the Monitor and Monitor's Counsel as set forth in the Ninth Report.

142. The Applicants seek approval from this Honourable Court of the professional fees and disbursements of the Monitor for the period to May 2, 2026 (the "**Monitor Taxation Period**"), Cassels for the period to March 31, 2026 (the "**Cassels Taxation Period**"), and Reed Smith for the period to March 31, 2026 (the "**Reed Smith Taxation Period**").

143. The total fees and expenses of the Monitor during the approximate seven-month Monitor Taxation Period are $77,437.50 (exclusive of GST), a summary of which is included below:

A2A Group
Summary of the Monitor's Statements of Account
For the period November 29, 2025 to May 2, 2026
$CAD

Invoice	Period	Fees	Disbursements	Subtotal	GST	Total
Alvarez & Marsal Canada						
12	29-Nov-25 to 6-Feb-26	34,555.00	525.00	35,080.00	1,754.00	**36,834.00**
13	7-Feb-26 to 28-Mar-26	26,792.50	25.00	26,817.50	1,340.88	**28,158.38**
14	29-Mar-26 to 2-May-26	15,465.00	75.00	15,540.00	777.00	**16,317.00**
	Total	**76,812.50**	**625.00**	**77,437.50**	**3,871.88**	**81,309.38**

144. The total fees and expenses of the Monitor's Counsel during the seven-month Cassels Taxation Period total $33,655.50 (exclusive of GST), a summary of which is included below:

A2A Group
Summary of the Monitor's Counsel's Statements of Account
For the period January 1, 2026 to March 31, 2026
$CAD

Invoice	Period	Fees	Disbursements	Subtotal	GST	Total
Cassels						
2315127	1-Jan-26 to 31-Jan-26	11,284.00	-	11,284.00	564.20	**11,848.20**
2315128	1-Jan-26 to 31-Jan-26	2,741.00	-	2,741.00	137.05	**2,878.05**
2315126	1-Jan-26 to 31-Jan-26	1,486.50	-	1,486.50	74.33	**1,560.83**
2315125	1-Jan-26 to 31-Jan-26	1,221.00	-	1,221.00	61.05	**1,282.05**
2315124	1-Jan-26 to 31-Jan-26	1,279.50	-	1,279.50	63.98	**1,343.48**
2318605	1-Feb-26 to 28-Feb-26	3,039.00	-	3,039.00	151.95	**3,190.95**
2324967	1-Mar-26 to 31-Mar-26	7,974.00	-	7,974.00	398.70	**8,372.70**
2324968	1-Mar-26 to 31-Mar-26	1,344.00	-	1,344.00	67.20	**1,411.20**
2324969	1-Mar-26 to 31-Mar-26	1,656.00	-	1,656.00	82.80	**1,738.80**
2324970	1-Mar-26 to 31-Mar-26	1,630.50	-	1,630.50	81.53	**1,712.03**
	Total	**33,655.50**	**-**	**33,655.50**	**1,682.79**	**35,338.29**

145. The total fees and expenses of the Monitor's Counsel during the approximate ten-month Reed Smith Taxation Period total USD$4,063.00, a summary of which is included below:

A2A Group
Summary of the Monitor's Counsel's Statements of Account
For the period November 29, 2025 to April 20, 2026
$USD

Invoice	Period	Fees	Disbursements	Subtotal	GST	Total
3916702	29-Nov-25 to 31-Dec-25	3,679.00	-	3,679.00	-	**3,679.00**
3943517	1-Jan-26 to 31-Mar-26	384.00	-	384.00	-	**384.00**
	Total	**4,063.00**	**-**	**4,063.00**	**-**	**4,063.00**

146. The Invoices 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. If necessary, copies of the Invoices will be made available to the Court upon request, if necessary.

147. The Monitor respectfully submits that its professional fees and disbursements and those of the Monitor's Counsel are fair and reasonable in the circumstances, given the substantive tasks required to be performed by the Monitor and the Monitor's Counsel in connection with the CCAA Proceedings.

MONITOR'S RECOMMENDATIONS

148. The Monitor respectfully recommends that this Honourable Court:

a) extend the stay of proceedings to September 18, 2026;

b) extend the Administration Charge and the Interim Lender's Charge to attach to the Offshore Investors' ownership interests, whether legal or beneficial, in the Lands and the proceeds of any sale thereof, including, without limitation, the proceeds of the Fossil Creek Sale and the Water District Sale; or

i. or in the alternative, authorizing the Monitor to charge the Offshore Investors' ownership interests in the Lands, and any sale proceeds of the sale thereof, and declaring that the Monitor has a charge on the Offshore Investors' UFIs in the Lands, and the Offshore Investors' ownership interest in the proceeds of the Fossil Creek Sale and the Water District Sale;

c) approve the Increased Administration Charge to $3,500,000;

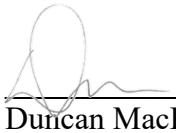
d) approve the fees and disbursements of the Monitor and the Monitor's Counsel; and

e) approve the activities and conduct of the Monitor as set out in this Tenth Report.

All of which is respectfully submitted this 19th day of May, 2026.

ALVAREZ & MARSAL CANADA INC.,
in its capacity as Monitor of A2A Capital Services Canada Inc., Serene Country Homes (Canada) Inc., A2A Developments Inc., and the other entities listed in Appendix "A" hereto
and not in its personal or corporate capacity

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



Duncan MacRae, CPA, CA, CIRP, LIT
Vice-President

APPENDIX "A"

Debtors

Canadian Entities

- A2A CAPITAL SERVICES CANADA INC.
- SERENE COUNTRY HOMES (CANADA) INC. [1]
- A2A DEVELOPMENTS INC. [2]
- ANGUS A2A GP INC.
- ANGUS MANOR PARK A2A DEVELOPMENTS INC. [3]
- ANGUS MANOR PARK CAPITAL CORP.
- ANGUS MANOR PARK A2A GP INC.
- FOSSIL CREEK A2A GP INC.
- HILLS OF WINDRIDGE A2A GP INC.
- WINGHAM CREEK A2A DEVELOPMENTS INC.
- LAKE HURON SHORES A2A DEVELOPMENTS INC.
- MEAFORD A2A DEVELOPMENTS INC.[4]

US Entities

- FOSSIL CREEK A2A DEVELOPMENTS, LLC [5]
- WINDRIDGE A2A DEVELOPMENTS, LLC [6]

Affiliate Entities

Canadian Entities

- ANGUS A2A LIMITED PARTNERSHIP
- ANGUS MANOR PARK A2A LIMITED PARTNERSHIP
- FOSSIL CREEK A2A TRUST
- HILLS OF WINDRIDGE A2A TRUST
- FOSSIL CREEK A2A LIMITED PARTNERSHIP
- HILLS OF WINDRIDGE A2A LIMITED PARTNERSHIP

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[1] f/k/a A2A CAPITAL MANAGEMENT INC.
[2] f/k/a A2A MEAFORD INC.
[3] f/k/a 2327812 ONTARIO INC.
[4] amalgamated with MEAFORD HIGHLAND RESORT INC.
[5] f/k/a RIVERS EDGE A2A DEVELOPMENTS, LLC
[6] f/k/a WHITE SETTLEMENT A2A DEVELOPMENTS, LLC

APPENDIX "B"

Action No.: 2401-15969
E-File No.: CVK24ANGUS
Appeal No.: _____

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, RSC 1985, C. C-36, AS AMENDED.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ANGUS A2A GP INC., ANGUS MANOR PARK A2A GP INC., ANGUS MANOR PARK A2A CAPITAL CORP., ANGUS MANOR PARK A2A DEVELOPMENTS INC., HILLS OF WINDRIDGE A2A GP INC., WINDRIDGE A2A DEVELOPMENTS, LLC, FOSSIL CREEK A2A GP INC., FOSSIL CREEK A2A DEVELOPMENTS, LCC, A2A DEVELOPMENTS INC., SERENE COUNTRY HOMES (CANADA) INC. AND A2A CAPITAL SERVICES CANADA INC.

P R O C E E D I N G S

Calgary, Alberta
November 25, 2024

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Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Calgary, Alberta

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November 25, 2024 — Afternoon Session

The Honourable Justice Simard — Court of King's Bench of Alberta

D. Jukes (remote appearance)	For the A2A Companies
J.L. Oliver (remote appearance)	For the Court Monitor
N.E. Thompson (remote appearance)	For the Court Monitor
R. Donnelly (remote appearance)	For the Court Monitor
D. Jorgenson (remote appearance)	For the Court Monitor
H. Gorman, KC (remote appearance)	For the Offshore Investor
O. Konowalchuk (remote appearance)	For the Court Monitor
K. Kashubahuk (remote appearance)	For Piller Capital Corp.
R. Gurofskyuk (remote appearance)	For the Canadian Ambassadors
K. Wong (remote appearance)	For the Canadian Ambassadors
A. McClelland (remote appearance)	For the Canadian Ambassadors
J. Ku (remote appearance)	For the Debtor Company
E. Choi (remote appearance)	For the Debtor Company
S. Lee (remote appearance)	For the Debtor Company
I. Cyr	Court Clerk

THE COURT: I think everyone can hear me all right?

MR. JUKES: I can hear you, Sir. Dan Jukes, from Miles Davison here. My apologies, I think the delay there was my fault. I had not realized that my friends from Ontario (INDISCERNIBLE) link, so I have forwarded it to them. I see at least one of them has since logged in. I hope the others will be here in a moment.

THE COURT: Okay. Where, Madam Clerk, where is the camera that is picking me up? Is it the one at the back of the courtroom?

THE COURT CLERK: It's the forward one.

THE COURT: Okay. I will face forward, because I see counsel over here -- okay.

Decision

THE COURT: Well, you are here, Mr. Jukes, so I will start. The punch line comes at the end, so hopefully your colleague will join by then.

Any preliminary matters before I give everyone my decision from last Thursday? Hearing nothing and seeing nothing -- and I did receive, I received the supplemental affidavit of Mr. Ambrose on Friday, and then I got the monitor's second supplement to the first report this morning. So thank you for that. I did have a chance to briefly review those.

So I am going to give you -- given the urgency of these applications -- I am going to give you my decision and my reasons today orally. And at the end, there will probably be some questions about the details to go in a Court order. I will ask Mr. Oliver to draft that Court order. I know he is not here, but I see his colleague is here.

If anyone requests a transcript of this decision, obviously I reserve my rights to make any minor proof reading or clean-up changes, but I will not, obviously, change anything substantive.

So Introduction.

On November 14th, 2024, this Court granted an initial order under the CCAA against 11 debtor companies -- 4 Alberta corporations, 4 Ontario corporations, and 1 corporation incorporated under the laws of Canada, 2 limited liability corporations incorporated the Texas.

The initial order also covered certain affiliated entities: 4 limited partnerships -- 3 registered in Alberta, 1 in Ontario; and 2 trusts, one of which was established in Ontario, and the other in Alberta.

I will collectively refer to the entities, all of entities covered by the initial order as the A2A Group.

The application for the initial order was made by five individuals who had invested in the A2A Group's project. I will call them the applicant investors. On November 21st, 2024, I heard two applications: The application of Alvarez and Marsal Canada Inc. -- the Court-appointed monitor, for an extension of the stay of proceedings and other relief; and the application of the A2A Group, asking that I set aside or stay the initial order, or adjourn the hearing to allow for more fulsome evidence and argument.

Background, first, with respect to the applicant investors.

The five applicant investors personally invested $76,000 in A2A's projects. They also

gave evidence about their family members or clients who had invested a further $105,500 in the projects.

The structure of the A2A Group and the projects.

The A2A Group raised money for the purpose of purchasing real estate that has a potential for large-scale residential development. The applicant investors have invested in three A2A real estate projects that have consequently been included in the initial order. I was advised that there might be as many as eight other A2A projects.

The three projects are Angus Manor, which is a 167-acre project north of Toronto; Fossil Creek, a 93-acre project in Fort Worth, Texas; and Windridge, a 415-acre project in Texas in the Dallas/Fort Worth area. The structure of the Angus Manor project is as follows: A development corp. -- or DevCo -- originally held title to the Angus Manor lands. Undivided fractional interests -- or UFIs -- in the lands were then transferred to be held by or for investors in the following ways: In the first offering, Canadian investors purchased units in a limited partnership. The limited partnership used the proceeds of those unit sales to purchase UFIs from the DevCo, and foreign investors did not invest through the limited partnership; rather, they bought UFIs directly from the DevCo.

In the second offering, Canadian investors bought bonds issued by a capital corp.. The capital corp. used the proceeds of those bond sales to buy limited partnership units in a second limited partnership, and that second limited partnership bought UFIs in the lands from DevCo.

The title to the Angus Manor lands was in evidence. It shows 2,300 UFIs owned as follows: 893 by the DevCo, 212 held in the first limited partnership structure, 65 in the second limited partnership structure, and 1,130 by foreign UFI owners.

The applicant investors say that the numbers held by the limited partnerships for Canadian investors are lower than promised. According to the offering memoranda, the two offerings were to raise about $17 million, of which $4.2 million was used to purchase the lands, $1.15 million was to get lands to the development-ready stage, and the rest was made up of different fees and commissions.

The structure of Windridge and Fossil Creek is different than Angus Manor, but generally the same as between those two Texas projects. For each project, a Texas limited liability corporation -- a DevCo -- originally held title to the entirety of the lands. UFIs were then transferred to be held by or for investors in the following ways: Canadian investors purchased units in a trust -- those were the Windridge A2A Trust and the Fossil Creek A2A Trust respectively. The trust used the proceeds of those unit sales to purchase units

of a limited partnership. The limited partnership used those proceeds to purchase UFIs from the DevCo. And then, foreign investors did not invest through the limited partnership or trust structure; rather, they bought UFIs directly from the DevCo.

A title search of Windridge lands was put in evidence by the applicant investors, but the registered ownership picture is not clear. One of the applicant investors, Mr. Edwards, says that title to the property is split between the DevCo Dirk Foo, as trustee of another trust called the Hills of Windridge Trust, and various individual and corporate owners of specific lots.

The Hills of Windridge Trust is one of the two newly identified trusts that the monitor asks me to include in these proceedings. There's no evidence about the structure of this trust, other than the fact that Mr. Foo -- an individual -- is believed to be the trustee.

No title search of Fossil Creek lands was put in evidence, so the registered ownership picture for those lands is unknown. The Fossil Creek Trust is the other newly identified trust that the monitor asks to be included in these proceedings. Similarly, there is no evidence about the structure of that trust, other than the fact that Mr. Foo is believed to be the trustee.

So next, the November 14th application.

The applicant investors' application was heard on November 14th. It was essentially ex parte. The materials filed and relied on were about 2,000 pages long. Service was attempted on November 12th by email and courier on various members of the A2A Group, or their directors or representatives. No service ex juris order was sought for the parties outside of Alberta.

Counsel for at least some of the A2A Group appeared and requested an adjournment. The applicant investors opposed to adjournment request, mostly on the basis that there was evidence of an imminent sale of the Angus Manor pending, so that urgent relief was necessary.

The primary complaint of the investors -- which was amply established on the evidence -- is an almost total lack of communication from the A2A Group, and extremely derelict governance. A large number of the companies involved in the investments and the project have been struck from the relevant corporate registries.

The applicant investors also pointed to what they called red flags in the evidence about the misconduct of the A2A Group -- although the vast majority of that was hearsay evidence.

The urgent circumstances of the application that justified the short service was evidence that the applicant investors had discovered a Facebook post indicating that a sale of the Angus Manor property with respect to which they held limited partnership units was imminent, but that none of them had heard about this sale or asked to approve it. There was evidence that investor voting had been called for any November 12th, and were to be tabulated on November 15th. The applicant investors had not been asked to vote.

The record before me on November 21st.

By November 21st, the respondents were represented by counsel in Toronto and Calgary -- although they had only been retained earlier in the week, and were still getting up to speed. The evidence before me was comprised of the affidavits of the five applicant investors from the November 14th application; the monitor's pre-filing report, first report, and supplement to the first report; and three affidavits submitted by the respondents -- two from directors of A2A Group entities, and one from the real estate agent involved in the sale of the Angus Manor lands.

No party asked for an adjournment of the November 21st hearing to cross-examine or for any other reason, despite the fact that there are substantial factual disputes on the evidence; therefore, my ability to assess the credibility of the affiants is limited.

After the hearing, the respondents sent me, on November 22nd, a supplemental affidavit of Mr. Ambrose, in which he provides what he says are the investors' proxies approving the sale of the Angus Manor lands.

On November 25th, the monitor sent a second supplement to its first report, commenting on discrepancies in those proxies, and attaching more correspondence received from UFI owners.

I will now outline the parties' positions.

The monitor asks for an order granting an amended and restated initial order; extending the stay of proceedings to February 28th, 2025; adding the two trusts I have named to the initial order -- that is, the Hills of Windridge Trust and the Fossil Creek Trust -- I will refer to those as the two new trusts; next, the monitor asked that I authorize it to register a copy of the amended and restated initial order on title to the Angus Manor lands in Ontario; increasing the administration charge from 250,000 to 500,000; increasing the interim financing charge from 500,000 to 2 million; attaching all UFIs with those two charges; removing the trustees of the two trusts already included in the initial order and the two new trusts.

The respondents ask that I said aside or stay the initial order, or adjourn the hearing for the following reasons: They say the initial order was effectively granted ex parte, without due process; service of foreign members of A2A Group was invalid because no service ex juris order was obtained, so the Court has no jurisdiction over those parties; the evidence before the Court in the November 14th application was incorrect, misleading, and speculative, and it did not prove malfeasance by the A2A Group; they say the A2A Group is not insolvent; some members of the A2A Group are not properly included in these proceedings; the properties are being marketed and sold for fair market value in arm's length transactions, fully in accordance with the bargained-for rights of all investors, including the applicant investors; and finally, that the applicant investors lacked standing to commence these proceedings, and they represent only a tiny fraction of investors; the rights they are entitled to as investors has not been infringed upon, and their commencement of these proceedings is prejudicing a much larger group of investors who have no notice of these proceedings.

So next, the issues.

The issues I must decide are whether I should extend the initial order; if so, on what terms. And whether I should grant the respondent's application to set aside or stay or adjourn.

Next, my analysis.

I will make some initial observations at the start. First of all, with respect to real-time litigation, this is a genuine case of real-time litigation. The applicant investors brought their application because they had received information indicating that the Angus Manor property was going to be sold imminently, and they had not received prior notice.

The A2A Group's position is that they are in the midst of marketing, selling, and distributing the proceedings of the properties, all of which is being done with arm's-length parties for fair market value, and in accordance with the investors' rights and entitlements. However, they say that the existence of these proceedings is hampering those efforts, and could result in extreme prejudice to the vast majority of investors and UFI owners who did not start these proceedings, and indeed, are unaware of them.

The parties will need ongoing access to the Court to ensure that this matter proceeds in a timely way so that stakeholders' interests are protected, and unwarranted prejudice is avoided or minimized. I will ensure that that happens in the order I am granting today.

Secondly, some comments on the purpose of the CCAA. The CCAA is broad and

remedial legislation that I must interpret in a large and liberal manner. However, there are limits to the *Act*'s flexibility. As its name suggests, the purpose of the *Act* is to assist insolvent companies in developing and seeking compromises and arrangements with their creditors. The continuation of a stay may not be appropriate if the purpose of the proceedings is not to further that fundamental purpose of the *Act*.

And the authority for that proposition is *Cliffs Over Maple Bay* 2008 BCCA 327. That decision must be read with caution because it was decided before the 2009 amendments to the *Act*. However, the principle it stated is still sound. The CCAA is not a statute that exists to serve the purpose of all parties who have disputes with insolvent entities.

As the applicant investors advised the Court on November 14th, this is not a conventional CCAA proceeding. It was not commenced in the way the vast majority of these cases are, by an insolvent debtor entity who needs protection from its creditors to be able to put together a plan.

It was also not commenced by creditors. It was commenced by investors whose rights and entitlements are unclear, based on the evidence before me presently.

The applicant investors' complaints are not that they are owed debts that are not being paid; but instead, that the respondents have completely failed to communicate with them, and that their governance appears to be highly deficient. The initial order effectively supplanted management on day one of this case by giving the monitor very wide-ranging enhanced powers. Two of the three projects covered by the initial order are not in Canada, but are located in Texas.

There is no hint that the applicant investors have any plan for a compromise or arrangement of the debtors, or even a process that would lead to out of the ordinary course sales. They essentially started this action to try to stop sales and to investigate the facts.

I will discuss these issues in more detail later in my decision, but at this point, I want to acknowledge that the concerns raised by the respondents are legitimate, and they cannot be dismissed out of hand. It is possible that the continuation of these proceedings -- while unquestionably driven by the genuine desire to protect investors' interests -- might be stretching the CCAA beyond its proper limits.

Next, my analysis of the issues.

Many of the issues raised in the parties' competing applications overlap, so I will analyze them in the order that seems most logical.

First, jurisdiction and authority.

The applicant investors' service of their November 14th application for the initial order was imperfect, short, and with respect to the Texas LLCs, defective because no service ex juris order was sought. However, there was legitimate urgency to the application, as I have already described.

The respondents now all have substantive notice of these proceedings and are represented by counsel. The two Texas LLCs are proper respondents, because they are inextricably intertwined in the corporate and investment structure of the Windridge and Fossil Creek projects that were marketed to Canadian investors in Canada through Alberta and Ontario corporations, limited partnerships, and trusts.

Despite the deficiencies in service of the application for the initial order, I find that I have jurisdiction over all of the existing respondents, include the two Texas LLCs. I will address the two new trusts later in this decision.

The standing of the applicant investors.

Section 11 of the CCAA states, quote:

> If an application is made under this *Act* in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this *Act*, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

That section is silent about who can make an application under the CCAA. Section 11.02(1), which governs applications for initial orders is also silent on who may apply for an initial order, but it repeats the same language:

> On an application in respect of a debtor company.

So there is no prohibition in the CCAA on investors applying for an initial order.

The applicant investors and the monitor have argued that the applicant investors are also creditors because they have contingent claims against the respondent. The basis for this argument seems to be that the amount of money raised with respect to the Angus Manor project exceeds the current proposed purchase price. There are many assumptions built into that chain of reasoning for which there is no supporting evidence.

Based on the evidence that is before me at this time, I am not satisfied that the applicant investors have contingent claims as creditors, but I do not have to decide that issue now.

The applicant investors are persons interested, as described in Section 11.02(1) of the *Act*; and as a result, I find that the applicant investors had standing to make the initial order application.

Next, insolvency.

Section 3(1) of the *Act* states that:

> This *Act* applies in respect of a debtor company or affiliated debtor companies if the total of claims against the debtor company or affiliated debtor companies, determined in accordance with section 20, is more than $5,000,000 or any other amount that is prescribed.

There is ample case law for the proposition that affiliates that are not companies, but instead are partnerships, can be included within the group that is covered by the initial order.

I am satisfied by the evidence that all of the respondents are affiliated, and their businesses are inextricably intertwined with respect to the three projects. The respondents did not challenge that assertion.

However, the respondents say that they are not insolvent because the approximate $12,000 tax liability owed on the Angus Manor lands has been paid, the approximate $1.3 million liability to the Angus Manor bond holders, quotes, "is not an actual liability and is not owed"; and finally, the US $3.8 million judgment was a default judgment. The respondents say that it was not challenged, as it did not pose a risk to any active A2A entities.

Mr. Lind, one of the respondent's affiants, said in his affidavit that this judgment does not effect title to the Windridge property, quote: (as read)

> And this has been confirmed by vigorous title reviews in relation to the ongoing negotiations to sell the Windridge property.

The monitor and the applicant investors agree that the $12,000 property tax bill was paid, although they note that this was only done after the interim order was granted.

The respondents' argument that the $1.3 million bond liability, quote, "Is not an actual

liability," is not supported by the evidence. The evidence they pointed to in the second Angus Manor offering memorandum does establish that the principle and interest on the bonds is not currently due and owing, and will only become owing on the maturity date, which is September 30th, 2026.

It is clear in the current negotiated purchase price for the Angus Manor lands that if that sale closes and those proceeds are brought in, the bonds will not be repaid in full. The bonds are to be repaid pari-passu with the limited partnership investments, and the purchase price from which significant fees are to be deducted, is well below the total amounts to be repaid to the LP unit owners and the bond holders. It is not possible to determine at this time what portion of the bonds would not be repaid.

Similarly, the respondents' assertion that the $3.8 million US judgment does not affect title to the Windridge property is not borne out by the evidence. Mr. Edwards, one of the applicant investors attached an August 2024 title search showing the property registered to the Windridge DevCo -- one of the debtor companies -- the judgment was registered on title as an encumbrance. The respondents do not contest the existence of the judgment, or that it remains unpaid. At the current exchange rate, this debt exceeds $5 million Canadian.

So based on the evidence currently before me, I am satisfied that the respondents are insolvent.

Extending the stay.

Pursuant to Section 11.02(3) of the CCAA, the Court may grant an extension of a stay of proceedings where:

> Circumstances exist that make the order appropriate; and
>
> The applicant satisfies the Court that it has acted and is acting in good faith and with due diligence.

The monitor is the applicant in this come-back application, and there is no question that it is acting in good faith and with due diligence. The real issue here is whether extending the day and permitting this very unusual CCAA proceeding to continue is appropriate in all the circumstances.

The following matters raised by the respondents are among the factors I must consider in deciding whether a stay extension is appropriate.

The applicant investors hold only a very small fraction of the investments in these projects. Their collective investments, including the investments of others that they've been in contact with, and that they describe in their affidavits, appear to amount to the following: First, with respect to Angus Manor, they hold 700 limited partnership units in the Angus Manor limited partnership. The title search discloses that there are 2,300 UFI interests, and the limited partnerships hold 212 -- although Mr. Edwards said this should be 424.

Based on Mr. Edwards' evidence, it seems that the applicant investors speak for about 2.2 percent of the limited partnership unit holders, and an aggregate of about 0.2 interest in the total UFIs. Although, if Mr. Edwards is correct about the miscounting, that may be twice as high, as much as 0.4 percent of the total UFIs.

With respect to Windridge, the applicant investors and those they describe hold 665 trust units in the trust. The respondents say there were 21,615 trust units sold, so the applicant investors speak collectively for about 3.1 percent of the trust beneficiaries.

The limited partnership that is owned by the trust bought 209 UFIs out of a total of 4,412, so the applicant investors speak collectively for about 0.1 percent of the total investors in the Windridge property.

With respect to Fossil Creek, the applicant investors and those they speak for bought 300 trust units in the trust. It's impossible to determine exactly what interest in the Fossil Creek lands that equates to on the evidence that I have. These 300 units likely represent between 1.8 percent of the total limited partnership units, and 1.1 percent of the limited partnership units, depending on whether the minimum or the maximum amount was raised. Mr. Lauzon's evidence suggests that depending on the amount raised, the limited partnership would hold between 209 and 349 UFIs in the land. 1,826 UFIs were sold directly to foreign investors, so it seems likely that the applicant investors probably speak for about 0.18 percent of the total UFIs in the Fossil Creek lands.

This extremely small proportionate interest raises three important considerations -- and maybe more than these three -- but the three I have identified are as follows:

> First, is it appropriate that a process started by these applicant investors should be allowed to continue with the risk that the potentially very large costs of the process will be borne by a much larger group of stakeholders who have not consented and are not even aware that this is happening?
>
> Second, in the overall context of the investments, are these applicant

> investors' rights being infringed? What rights did they bargain for, as extremely small fractional unit owners? Do they have the power to hold up sales if the majority has approved them?
>
> And third, a related question: It is one thing to say your investment is being managed poorly, and that you are not receiving any communications. There are corporate and common law remedies for that kind of wrong. It is quite another thing to say that your extremely fractional interest being ignored entitles to you freeze the totality of the investments and effectively take control of the entities out of the hands of management and directors.

The respondents' evidence is that the Fossil Creek property has been sold, the Angus Manor property is under contract for sale, and negotiations are being held to sell the Windridge property. As I have mentioned, the respondents say that all of these sales or sale processes are arm's-length for fair market value and in accordance with the investors' rights and entitlements. They might be. If they are, it may be difficult for the applicant investors to justify the continuation of these proceedings.

At this time, I do not have enough evidence to definitively decide these issues. The monitor and the applicant investors say this dearth of evidence is because the A2A Group never reported to investors, and since November 14th, have not complied with the provisions in the initial order requiring them to give information to the monitor.

The respondents say that they have not failed to comply and have corresponded with the monitor, but have had very little time to take meaningful steps, as they've been occupied with responding to the application.

I find that it is appropriate to continue the stay, considering these circumstances, but only for a limited time, and only for a limited purpose.

I extend the stay to and including December 18th, 2024. The purpose of this extension is to allow the respondents to provide the monitor with the necessary information to allow the monitor to create a comprehensive report for me and for the other stakeholders, so that we have a proper record, and I can properly decide whether continuation after that date is appropriate; and if so, on what terms.

Based on the respondents' evidence, this relatively short extension will not prejudice any of the existing sales or sale processes. It will also provide what both parties want, and what I need: Time for all of the relevant information to be brought forward.

I will not be overly prescriptive as to the contents of this comprehensive report from the monitor, but I expect that the report will provide a full picture about the following things:

> The respective rights and entitlements of each class of investors, including the investors' rights to approve property sales;
>
> The ownership of the properties;
>
> The value of the properties;
>
> The marketing processes that were conducted or are being conducted for the properties; and.
>
> The investor approval process conducted for any sales, including how investors were notified of sales, what they were told, what opportunities they were given to approve sales, and how sales were approved, including by whom, and under what authority.

I'm adjourning the respondents' application and those parts of monitor's application that I am not deciding today to 10 AM on Wednesday, December 18th , for a half-day hearing before me.

I will now outline the parts of the monitor's application that I am deciding today, because clarity on these points will help the parties decide what they need to do as this matter moves forward.

So first, the monitor's request to extend the charges to attach to the UFIs. The monitor asks that I extend the administration charge and the interim financing charge to attach to the interests of UFI owners in the three projects. As I explained earlier, it appears that the vast majority of each of the three projects is owned directly by many hundreds, or maybe even thousands of foreign purchasers of UFIs.

After the interim order was granted, the monitor implemented a communication plan to try to reach other investors, including these foreign UFI owners. By the time of the hearing on November 21st, the monitor said it had heard from 72 UFI owners. By today, November 25th, it said that had increased to 126 UFI owners.

The monitor included samples of correspondence with those parties in its first and second supplement to its first report. These communications generally raise similar concerns, as those voiced by the applicant investors. Allegations of fraud or misconduct by the A2A Group, and complaints about a lack of disclosure and reporting. However, there was

some reluctance expressed in some of the communications about the costs to the UFI owners of participating in the process.

These 126 investors who have been in touch with the monitor are still a very small fraction of the total group of UFI owners. No party provided me with any precedent authority for the proposition that I can extend charges under the CCAA to property owned by third-party. And the *Act* does not allow that.

In Section 11.2, which deals with interim financing charges, that section authorizes the Court to grant an order declaring that, quote:

> All or part of the company's property is subject to a security or charge.

Section 11.52, which covers administration charges, uses the exact same language.

While Section 11 authorizes me to make any order I see fit, my authority under that section is expressly subject to the restrictions set out in the *Act*. Section 11.2 and Section 11.52 set out very clear restrictions on the property that can be made subject to an administration charge or an interim financing charge. It is only the property of the debtor companies.

In the context of this case, that is the interests held by the debtor companies and their affiliates in each of the three properties, and any other property of those members of A2A Group.

Therefore, the monitor's request to charge the UFI owners' interests is dismissed.

I am going to ensure that it is open to the monitor or to any other party to make an application under the costs allocation provision in the interim order, of the costs of these proceedings shared by UFI owners.

So I will give you a moment, counsel, to pull up the interim order, but I am going to direct that paragraph 55 be amended. Paragraph 55 currently reads: (as read)

> Any interested person may apply to this Court on notice to any other party likely to be affected for an order to allocate the charges amongst the various assets comprising the property.

So what I am going to add at the end is, after "the property": (as read)

> Or the costs of these proceedings among any parties who have benefitted

> from these proceedings.

Is that wording clear? I see a nod, thank you.

So that will be a change in the amended and restated initial order.

As I said, I find that I do not have the power to extend the charges to the UFI owners properties, but I am not precluding anyone from arguing at any appropriate point in the future that if those parties have benefitted from these proceedings, an application can be made to share costs with them.

I am also not precluding the possibility that UFI owners may agree at some point to have their interests attached by the charges. Obviously we are at a very early stage of these proceedings potentially. And if they agree to do so, I would have the authority to make that order.

The next matter I will deal with today is adding the two new trusts to these proceedings. The monitor asks that I add the Hills of Windridge trust and the Fossil Creek trust to these proceedings as affiliates of the debtor companies. It was suggested that I have the authority to do that under Section 11, and that it would be just and convenient to extend the scope of the proceedings to these two trusts to prevent the transfer of the Texas lands, quote: (as read)

> Until such time as the monitor is able to definitively determine which entities are the registered owners.

With respect, that reasoning is backwards. A desire for an order granted because it is considered just or convenient does not create jurisdiction in the Court to grant the order.

This request would require me to order that Mr. Foo -- an individual -- should be treated as a debtor company under the CCAA, or an affiliate of a debtor company. I clearly do not have the authority to do that.

The monitor asked that in the alternative, I grant an order enjoining the sale of the Texas lands. It is equally clear that power to do that is well beyond the jurisdiction of this Court.

I note that the interests of the debtor companies and their affiliates in the properties cannot be sold under the current interim order, except by the monitor, and subject to the limitations in paragraph 15(a) of the interim order. But with respect to the request to extend the initial order to cover the two new trusts, that part of the monitor's application is

dismissed.

Next, removing the trustees from all four trusts. The monitor requested that I remove the trustees of the two trusts that are currently part of these proceedings, and the two new trusts. Obviously I will not be doing that with respect to the two new trusts, because I am not adding them. But I also find it is premature for me to do that with respect to the two trusts that are already included in these proceedings, so I adjourn that part of the monitor's application to 10 AM, on December 15th.

Here is a list of miscellaneous items from the monitor's application that I am dealing with at this time:

> So service, I will deem service of the come-back application good and sufficient.
>
> The request to approve the requested protections for representative counsel and the other requested changes in paragraphs 26 to 33 of the amended and restated initial order are granted.
>
> I do authorize the monitor to register the initial order and/or the amended and restated initial order on title to the Angus Manor lands.
>
> And I do declare that the monitor and representative counsel have the necessary standing to apply to add other debtor companies or affiliates to these proceedings.

The rest of the -- other than the extension of stay, which I am going to get into in a bit more detail now -- the rest of the monitor's application is adjourned to December 18th.

Between now and December 18th, I direct the parties to take the following steps: By 4 PM, this Thursday, November 28th, the monitor will provide a second report to the Court and to the other stakeholders. This will be a very limited purpose report, reporting on two things: The expenditures and accruals to date, broken down as between the service providers; and second, a revised cash-flow statement listing all proposed expenditures to get to and complete the December 18th hearing date, again, broken down as between the service providers. I want a description of what each professional will be doing up to and including December 18th, in keeping with the limited scope of the stay extension I am granting.

Next, we have a hearing this Friday, at 9 AM -- although we can discuss that afterwards, because it looks like the rest of my morning was cleared, which I was not anticipating. It

will be a one-hour hearing. The purpose of that hearing will be based on the second report to decide whether the charges and the limit on the interim loan should be increased for the interim stay extension period to December 18th. What I expect from the monitor is to see a very realistic and prudent cash flow.

As I will make clear, the monitors and its counsel's primary task over the next month will be corresponding with the respondents and preparing the comprehensive report I have requested for the December 18th hearing. Other than that, the monitor should only be carrying out the tasks that it is empowered to carry out under the initial order that are necessary.

Same is true for representative counsel. Obviously they will be communicating with their respective groups of investors, and all of the professionals will need to prepare for and attend the November 29th and December 18th hearings. But beyond what I have described, only absolutely necessary steps should be taken.

If I am reading the first report correctly, it appears that the interim lender has advanced $500,000, of which 378,000 has gone to the monitor. The balance are fees and an interest reserve. Professional fees to November 22nd were estimated to be $309,000. Very close scrutiny of the cash flow is necessary at this time, in my view, because I remain unconvinced that a long and comprehensive stay extension is warranted, bringing with it what would be very substantial fees, projected in the first report, that would be borne by all the investors.

My dismissal of the monitor's request to extend the charges to the UFIs will be something that the monitor will have to discuss with the interim lender between now and Thursday. The monitor will also have to do the same with its US counsel, so that it can give me, and so that it has an understanding of what steps will be necessary this a Chapter 15 proceedings, and what possibly could be delayed in those proceedings between now and December 18th.

And as I said, at the end of the decision today, I can answer any questions you have about these details, but I think the parties understand the overall gist of my direction.

I will not be approving a $2 million cash-flow on Friday, and I expect everybody to work together in good faith to help the monitor come up with the most modest and realistic cash-flow possible.

Turning to the respondents, I am specifically directing them to provide to the monitor the information that the monitor will need to prepare the comprehensive report I am expecting for December 18th. It is most efficient to describe the respondents' information

obligations with reference to Appendix C from the first report, which is the November 15th letter that Mr. Oliver sent to the respondents' former counsel, but which all the parties now have notice of, because it was included in the report. I am just going to pull that letter up.

So this information, I will get into a bit more detail, this information has, Mr. Jukes, has to be provided by the respondents by 4 PM on Friday, December 6th, at the latest. First of all, if you look at that Appendix C, that is the November 15th letter, Schedule A is the group to which the information requests relate. I am directing that the two new trusts be added to that list.

The respondents put information in evidence about those trusts. It is obvious from the scant evidence that I have that those trusts are involved at the very least in the holding of title to the Texas lands. So they will be added to this list, and they will be covered by the information requests.

I think the entity in number 9 -- which says Hills of Windridge Trust -- I think that is supposed to be Hills of Windridge A2A Trust, that is one of the two trusts currently in the proceedings. So what the respondents have to provide by the deadline I have stated is all of the corporate records -- that is the first section -- turning now to Schedule B in that letter; the accounting records in the second section.

With respect to current bank accounts, the respondents have to provide a daily update to the monitor so that the monitor can see if balances are changing in those current accounts.

The investor records in the third section have to be provided.

The contracts, all that information in the fourth section.

The contacts in the fifth section.

And then the other records in the final section.

I am adding some specific items to that other section, so take note of this, Mr. Jukes -- and they may be covered, but I am stating them in more detail, because these have to be included in the monitor's report: So all title documents for the properties; all documents related to the marketing of the properties, data rooms, or due diligence materials related to the marketing of the properties; any valuation or appraisal information for the properties in any form; and all information about the investor approval process conducted for any sales, including what I mentioned before -- how investors were notified of sales, what they were told about those sales, what opportunities they were given to approve

sales, how sales were approved, including who provided those approvals and under what authority.

So I want to be clear about what this production process will look like. I was encouraged to see in the monitor's second supplement to its first report that there has been contact, and I think the respondents appear to be that they initiated conversations to hold a meeting tomorrow. I expect this production process to be a dialogue between the respondents and the monitor that should start immediately. It should be a steady flow of information. This will not be silence until 3:59 PM, on December 6th, and then a large data dump. That will not allow the monitor to prepare its report, which will be a sizable undertaking.

The respondents' obligation is not limited to producing documents that exist. If the monitor has questions within these topics or areas I have described, it can ask them, and the respondents must respond in correspondence.

There may be legitimate disputes about the scope of what monitor is entitled to receive. I would expect any such disputes to be resolved on the side of inclusion, not exclusion. There may be legitimate disputes about whether some materials that the monitor wants are confidential. The respondents can identify as confidential any information they provide, but they cannot refuse to send it on that basis. The only basis on which they can refuse to send information is if it is privileged. What I mean is if it is covered by the topics I have outlined, they have to produce it, except for privileged information.

For any information the respondents do describe or identify as confidential, the monitor will keep it confidential, and will only include it in a confidential appendix to its report. And if there is an argument about confidentiality, we can have that on December 18th.

So I expect in this disclosure of information, and then in the subsequent report, a full picture of all the topics I have described.

All stakeholders, including the respondents, are under the express duty of good faith set out in Section 18.6 of the *Act*. And I expect the respondents to comply with this order by cooperating with the monitor fully and completely.

Serious allegations have been raised by the applicant investors and others, and the respondents now have an opportunity to demonstrate that as they have argued, everything is in order. And a failure by them to comply with this order in good faith and to provide the necessary materials would be a factor that I would consider very seriously on December 18th, especially since the stay remedy they have requested, I will note, is an equitable remedy. That will be well known to Mr. Jukes.

And finally, the monitor will provide to the Court and to the other parties what I have been calling its comprehensive report, and any confidential supplement, by 4 PM on Friday, December 13th.

The respondents, if they want to file any additional evidence for December 18th, they can do so by that same deadline -- 4 PM on Friday, December 13th.

And if parties want to file briefs in advance of the December 18th hearing, they can do that by Monday, 4 PM on Monday, December 16th.

Discussion

THE COURT: So that was a lot, and I anticipate that parties may have questions about that. So I will open the floor up to anyone who has questions. Do I see Mr. Oliver? The screen shots I am seeing are very small, but has Mr. Oliver joined us perhaps?

MR. OLIVER: I have, yes. My other hearing finished, thank you, Sir.

THE COURT: Okay. I do not know what you heard of that, or when you came in, Mr. Oliver, but there is fairly, what I hope are fairly clear directions to the monitor on the limited purpose of this extension, and then a fairly sizable undertaking to produce a comprehensive report so I have the necessary evidence.

MR. OLIVER: I think I got it all, Sir. Thank you. And if not, I think my colleagues will have as well.

THE COURT: Okay.

Any questions from anyone else?

MR. JUKES: Sir, this is more of a mundane procedural type question, but in terms of getting a transcript, I guess firstly, we would need some courtroom information to do that; but secondly, is there any way that we could get some kind of note to the transcript management to expedite here? I took as many of these notes as I could, but my hand is maybe not as quick as some on the note-taking.

THE COURT: Sure. First of all, we are in Courtroom 1003, so that is the courtroom you need to specify to order a transcript.

You know, I think what I will do is I read in pretty detailed notes. I think I can probably put together -- do not treat this as definitive, but I think it will probably be the most efficient way for everyone to work together to draft this Court order and to understand what the parties' obligations -- I will put together at least a point-form in an email. I will send it to my assistant, and she will send it out to everyone this afternoon. So you can see what I think are the directions with respect to what is going to happen next.

MR. OLIVER: Thank you, Sir.

One question I had, if I may, was for the hearing on the 18th of December, just in the interest of sort of perfecting materials correctly, would you be looking for, for example, an application for advice and direction from the monitor with this information as well, with the information that you asked for, as well as recommendations with respect to the path forward? Would that be of assistance?

THE COURT: Well, yes, the way I am viewing December 18th is an adjournment of your larger stay extension application -- other than the specific things I dealt with today -- an adjournment of that application and an adjournment of Mr. Jukes' application. If we are going to be a month forward into the future, if you think other relief is required, or you need to amend that existing application, you are certainly free to do that. The deadline for that should probably be -- well, send it out as soon as you can, but no later than that Friday afternoon deadline for your report.

MR. OLIVER: Thank you.

THE COURT: But the more notice the respondents certainly have, if you are seeking different relief or advice and directions on different matters, the earlier the better. You can make that application returnable at that time.

So yes, this Friday, I imposed hearing dates on all of you. That is just a practical reality, because looking at my schedule, there are not many days. Given the real-time nature of this, and given that the commercial list is fully booked until well into January, you are not going to get time in front of other Judges. So I am jamming you with those dates and times.

As I said, I thought I was sitting for the whole morning this coming Friday. It looks like I may not be. So if 9 AM is incredibly onerous or impossible for somebody, we could talk about moving that to later on Friday morning.

Okay, hearing nothing.

Similarly, for December 18th. That is pretty much the only time I would have a half-day open between now and the holiday break. If there is violent opposition to doing that in the morning, we could move that to 2 PM, but I think given the volume of the materials that people will have, and hopefully the amount of dialogue that will occur between now and then, I think a half-day is sufficient to argue that motion, those motions.

Okay. Assuming people have access to their calendars, and no one is screaming about 10 AM, we will do it at 10 AM on December 18th.

And, Madam Clerk, you have both of those dates. We will have a physical courtroom as well as Webex?

THE COURT CLERK: Yes.

THE COURT: Anything else arising that anyone can think of? As I said, the first thing I will do when I go upstairs is put together this email that you will get from my assistant, hopefully helping you with the process of drafting the order and understanding where this is going.

MR. LEE: My Lord, Mr. Jukes has indicated to me that he will have very limited time in December. I want to make sure he will be available on December 18th.

THE COURT: Okay.

MR. JUKES: Yes, I can make that work, yes.

MR. LEE: Great, thank you.

THE COURT: Okay. Speak now or forever hold your peace.

Okay. Thank you, all. As I say, stay tuned for that email a little later this afternoon, and then if you have trouble, obviously, if you have trouble settling the terms of the order between now and Friday, we can do it on Friday. But I think with what I have said today, and with the email I will send shortly, I think that gives everyone enough detail to know what they need to be doing in the short-term.

Thank you, all, for attending. Good afternoon.

PROCEEDINGS ADJOURNED UNTIL 9:00 AM, NOVEMBER 29, 2024

Certificate of Record

I, India Cyr, certify that this recording is the record made of the evidence in the proceedings in the Court of King's Bench, held in Courtroom 1003, at Calgary, Alberta, on the 25th day of November, 2024, and that I was the court official in charge of the sound-recording machine at all times.

Certificate of Transcript

I, J. Aubé, certify that

(a) I transcribed the record, which was recorded by a sound-recording machine, to the best of my skill and ability and the foregoing pages are a complete and accurate transcript of the contents of the record, and

(b) the Certificate of Record for these proceedings was included orally on the record and is transcribed in this transcript.

690512 NB Inc.
Order Number: TDS-1073424
Dated: December 12, 2024

APPENDIX "C"

In the Court of Appeal of Alberta

Citation: Angus A2A GP Inc v Alvarez & Marsal Canada Inc, 2026 ABCA 156

Date: 20260511
Docket: 2401-0350AC;
2401-0352AC;
2501-0050AC;
2501-0053AC
Registry: Calgary

Docket: 2401-0350AC

Between:

**Angus A2A GP Inc., Angus Manor Park A2A GP Inc.,
Angus Manor Park A2A Capital Corp., Angus Manor Park A2A Developments Inc.,
Hills of Windridge A2A GP Inc., Fossil Creek A2A GP Inc., Fossil Creek A2A,
A2A Developments Inc., Serene Country Homes (Canada) Inc. and
A2A Capital Services Canada Inc.**

Appellants

- and -

**Alvarez & Marsal Canada Inc.
in its capacity as Court-Appointed Monitor of the Appellants**

Respondent

Docket: 2401-0352AC

And Between:

**Fossil Creek A2A Developments, LLC and
Windridge A2A Developments, LLC**

Appellants

- and -

Alvarez & Marsal Canada Inc.

Respondent

Docket: 2501-0050AC

And Between:

Fossil Creek A2A Developments, LLC and
Windridge A2A Developments, LLC

Appellants

- and -

Alvarez & Marsal Canada Inc., Michael Edwards, Paul Lauzon, Isabelle Brousseau, Pat Wedlund, and Brian Richards, the Canadian Investors and the Offshore Investors each as defined in the Initial Order granted November 14, 2024

Respondents

Docket: 2501-0053AC

And Between:

Fossil Creek A2A GP Inc., Hills of Windridge A2A GP Inc.,
Fossil Creek A2A Limited Partnership, Hills of Windridge A2A LP,
Fossil Creek A2A Trust and Hills of Windridge A2A Trust

Appellants

- and -

Alvarez & Marsal Canada Inc., Michael Edwards, Paul Lauzon, Isabelle Brousseau, Pat Wedlund, and Brian Richards, the Canadian Investors and the Offshore Investors each as defined in the Initial Order granted November 14, 2024

Respondents

The Court:

The Honourable Chief Justice Ritu Khullar*
The Honourable Justice William T. de Wit
The Honourable Justice Karan M. Shaner

Memorandum of Judgment

Appeal from the Order by
The Honourable Justice C.D. Simard
Dated the 25th day of November, 2024
Filed on the 3rd day of December, 2024
(Docket: 2401-15969)

Appeal from the Order by
The Honourable Justice C.C.J. Feasby
Dated the 29th day of January, 2025
Filed on the 10th day of February, 2025
(2025 ABKB 51; Docket: 2401-15969)

*Chief Justice Khullar did not participate in the final disposition of the judgment.

Memorandum of Judgment

The Court:

I. OVERVIEW

[1] These are four related appeals from decisions that continued and confirmed proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (*CCAA*). They stem from two real estate development projects in Texas. The appellants fall into two groups. One group consists of two Texas corporations that acquired and developed the project lands and were involved in raising investment for their development (the Texas LLCs[1]). The other group consists of Canadian entities that formed part of a complex structure set up to secure investment from Canadian investors (the Canadian WFC Entities[2]).

[2] There are two groups of respondents. One group consists of the Canadian and offshore investors in the real estate projects. The other respondent is the court-appointed monitor, Alvarez & Marsal Canada Inc (the Monitor).

[3] In November 2024, five Canadian investors obtained an Initial Order under the *CCAA* on what was effectively a without notice basis. That order applied to the appellants and other entities that are not parties to these appeals.

[4] The *CCAA* proceedings commenced by the Initial Order are unusual. They were started by "equity investors" rather than by a debtor company or a creditor. One purpose of the Initial Order was to stop an imminent land sale and enable the gathering of information. The Initial Order gave the Monitor wide powers of management of the relevant entities including the appellants. The anticipated outcome of the *CCAA* proceedings is the liquidation of the entities' assets and the distribution of the proceeds to investors and creditors though a claims process, not the survival of the business in a restructured form.

[5] The Initial Order was subject to a "comeback hearing" on notice to determine whether it should have been granted. That hearing took place in two stages before two different judges.

[6] At the first stage, in November 2024, the chambers judge resolved some issues but did not finally determine whether the Initial Order should have been granted. That decision is referred to as the *ARIO Decision* and is one of the decisions under appeal. The second stage of the comeback

[1] Fossil Creek A2A Developments, LLC and Windridge A2A Developments, LLC.

[2] Hills of Windridge A2A GP Inc, Fossil Creek A2A GP Inc, Fossil Creek A2A Limited Partnership, Hills of Windridge A2A LP, Fossil Creek A2A Trust and the Hills of Windridge A2A Trust.

hearing took place before a different chambers judge in January 2025. He confirmed the Initial Order, dismissed the application to set it aside, and continued the *CCAA* proceedings against the appellants and other entities who have not appealed: ***Angus A2A GP Inc (Re)***, 2025 ABKB 51 (*Comeback Decision*).

[7] Leave to appeal both decisions was granted: ***Angus A2A GP Inc v Alvarez & Marsal Canada Inc***, 2025 ABCA 147.

[8] These appeals raise several issues. Two overarching questions are whether the Initial Order was consistent with the purposes of the *CCAA* and whether there was a sufficient prospect of the proceedings succeeding to justify the Initial Order. Additional issues are (i) whether "equity investors" may ever commence *CCAA* proceedings; (ii) the court's authority to make orders against companies incorporated outside of Canada with no business or assets in Canada; (iii) the court's authority to make orders against entities that are not individually insolvent; and (iv) alleged procedural flaws in the decisions confirming the Initial Order.

[9] We dismiss the appeals and confirm the Initial Order. Our reasons follow.

II. FACTS

A. Real Estate Projects and the Investment Structure

[10] The *CCAA* proceedings commenced by the Initial Order apply to both the Texas LLCs and the Canadian WFC Entities. They are part of a convoluted structure created to develop real estate projects in Texas and obtain investment for that purpose. Understanding their place in the structure is important for two reasons. One is to clarify the relationship of the appellants to other entities. The decisions under appeal justified including the Texas LLCs in the *CCAA* proceedings in part because they were "inextricably intertwined" with Canadian entities involved in the real estate projects. Another is to clarify which entities are *not* subject to the *CCAA* proceedings, which bears on whether the proceedings can be justified.

[11] The Canadian WFC Entities and the Texas LLCs are direct or indirect subsidiaries of Serene Country Homes Holdings PTE Ltd, a Singaporean company controlled by Dirk Foo: *Comeback Decision* at para 21. Below Serene Country Homes Holdings PTE Ltd are three corporate structures created to acquire, develop, and secure investment for, three real estate projects: Angus Manor Park (Angus Manor) in Ontario, Hills of Windridge (Windridge), and Trails of Fossil Creek (Fossil Creek), both in Texas. The entities related to the Angus Manor project are not parties to these appeals.

[12] In what follows, we describe the corporate structures created for the Fossil Creek and Windridge projects. Diagrams representing those structures and what is known about sales of the developed land are set out in Appendix A to these reasons. The reader may find it useful to refer to those diagrams while reading the text.

Fossil Creek

[13] Fossil Creek is a 93-acre residential project in Fort Worth, Texas. Fossil Creek A2A Developments, LLC (Fossil Creek LLC), a Texas entity, purchased the project lands in 2013. It was the acquisition and development vehicle. Approximately $21 million was raised from investors to develop the project lands.

[14] In 2014, offshore investors purchased undivided fractional interests (UFIs) in the Fossil Creek lands and became co-owners of the lands. In December 2014, the offshore investors transferred their UFIs to the Fossil Creek Trust, a Texas trust. Mr. Foo is the trustee.

[15] Canadian investors invested in the Fossil Creek project indirectly through the exempt securities market. They purchased units in the Fossil Creek A2A Trust (an Alberta trust), which in turn used the proceeds to purchase units in Fossil Creek A2A Limited Partnership (an Alberta limited partnership). That entity, in turn, used the proceeds to purchase UFIs in the project lands from Fossil Creek A2A Developments, LLC (Fossil Creek LLC). In 2015, Fossil Creek A2A Limited Partnership transferred its UFIs to the Fossil Creek Trust.

[16] Parts of the Fossil Creek lands were developed and sold between 2014 and 2024. In the fall of 2024, before the *CCAA* proceedings began, the remaining Fossil Creek lands, except for one lot, were sold to a third party. To facilitate the sale, those lands were transferred to a new Texas entity: Trails of Fossil Creek Properties LP. Fossil Creek LLC was its general partner. It appears that the proceeds of the sale are held in a bank account in Texas by Trails of Fossil Creek Properties LP.

[17] The following are important points to note:

- Fossil Creek A2A Limited Partnership, the Fossil Creek A2A Trust, and Fossil Creek A2A GP Inc are Alberta entities. They are subject to the *CCAA* proceedings and are part of the Canadian WFC Entities group of appellants.
- Fossil Creek LLC is a Texas company. It is subject to the *CCAA* proceedings and is one of the Texas LLCs.
- The Fossil Creek Trust is not subject to the *CCAA* proceedings; nor is the trustee, Mr. Foo. That is an aspect of the *ARIO Decision* that is not under appeal.
- Trails of Fossil Creek Properties LP, which is believed to hold the proceeds of the 2024 sale of the Fossil Creek lands, is not subject to the *CCAA* proceedings.

Windridge

[18] Windridge is a 415-acre project in the Dallas/Fort Worth area of Texas. The corporate structure created for the development of and investment in the Windridge lands is similar to that for the Fossil Creek project.

[19] Hills of Windridge A2A Developments, LLC (Windridge LLC), a Texas entity, purchased the project lands. It was the acquisition and development vehicle. Approximately $44 million was raised from investments for development of the project lands.

[20] In 2013, offshore investors purchased UFIs in the Windridge lands, making them co-owners of the lands. In April 2014, the offshore investors voted to transfer their UFIs to Hills of Windridge Trust, a Texas trust. Mr. Foo is also the trustee of that trust.

[21] Canadian investors invested in the Windridge project indirectly in the exempt securities market. They purchased units in the Hills of Windridge A2A Trust (an Ontario trust), which, in turn, used the proceeds to purchase units of Hills of Windridge A2A LP (an Ontario LP). That entity, in turn, used the funds to purchase UFIs in the project lands from Windridge LLC in 2014. Hills of Windridge A2A LP later transferred its UFIs to the Hills of Windridge Trust. Portions of the Windridge lands were developed and sold between 2014 and 2024.

[22] In 2024, before the *CCAA* proceedings started, a small part of the Windridge lands was sold for an unknown price in response to an expropriation notice. To facilitate the sale, that parcel was transferred to a new entity, Hills of Windridge LP. Windridge LLC was its general partner. It appears that the proceeds of the sale are held in a bank account in Texas by Hills of Windridge LP.

[23] It is not clear who owns the remaining Windridge lands. The Texas LLCs say the lands are owned by the Hills of Windridge Trust. The investors say that the lands are owned by Hills of Windridge LP. The Monitor is unsure and points out that the Texas LLCs have not complied with a court order to provide information about ownership.

[24] The following are important points to note:

- Hills of Windridge A2A LP, the Hills of Windridge A2A Trust, and Hills of Windridge A2A GP Inc are Ontario entities. They are subject to the *CCAA* proceedings and part of the Canadian WFC Entities group of appellants.
- Windridge LLC is a Texas corporation. It is subject to the *CCAA* proceedings and is one of the Texas LLCs.
- The Hills of Windridge Trust, a Texas trust, is not subject to the *CCAA* proceedings; nor is the trustee, Mr. Foo. That is an aspect of the *ARIO Decision* that is not under appeal. It may hold the remaining Windridge lands.
- Hills of Windridge LP, a Texas entity, is not subject to the *CCAA* proceedings either. It holds the sale proceeds of the expropriation sale and may hold the remaining Windridge lands.

[25] The net effect is that the proceeds of the expropriation sale, and the remaining Windridge lands were outside the reach of the *CCAA* proceedings when these appeals were heard.

B. Investors' Rights

[26] As noted, Canadian investors in the Fossil Creek and the Windridge projects own units in trusts: the Fossil Creek A2A Trust and the Hills of Windridge A2A Trust. Those trusts, in turn, own units in partnerships which previously owned UFIs in the project lands but now do not.

[27] The rights of Canadian investors in trust units are set out in the relevant declarations of trust.

[28] The Fossil Creek A2A Declaration of Trust provides for distributions to beneficiaries in certain circumstances, but they are not guaranteed. Unit holders have a right to redeem their units on giving notice at a price set out in the declaration of trust. They also have a right to have their units redeemed on a proportionate basis on a winding-up, after the trust's other liabilities are satisfied. The administrator of the trust is required to call a meeting of the trust unitholders within 18 months of the declaration of trust becoming effective and at least every 15 months thereafter. Prior to each meeting, the administrator is required to provide unit holders with annual financial statements.

[29] The Hills of Windridge A2A Declaration of Trust also provides for distributions to beneficiaries in certain circumstances, but those distributions are not guaranteed. Under the Declaration, beneficiaries have the right to have their units redeemed upon giving notice and on a winding up, after the payment of the trust's other liabilities. Investors holding at least 25% of the units may call a meeting of investors. The trustees are required to provide investors with annual financial statements as required by applicable law and to prepare and maintain accounting records.

[30] Offshore investors in both the Fossil Creek and the Windridge projects owned UFIs in the project lands. The UFIs are governed by the Fossil Creek Deed of Covenant and the Windridge Deed of Covenant.

[31] Under the Fossil Creek Deed of Covenant, UFI holders do not have rights to participate in the development of the Fossil Creek lands. The Deed provides for the distribution of the net income from sale, lease, or other dealings with the property, but the distributions are not guaranteed. UFI holders have the right to vote on the sale of all or any part of the Fossil Creek lands. The facilitator[3] is required to maintain accurate books and records and make them available for inspection.

[32] The position of UFI holders under the Windridge Deed of Covenant is substantially similar.

[33] Importantly, Canadians and offshore investors hold securities, but they are not debt securities. The security issuers do not owe the investors money. The parties and the courts below

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[3] Fossil Creek LLC.

described them as “equity investors”. That is significant because one issue on appeal is whether the “equity investors” in this case, or in general, should be able to initiate *CCAA* proceedings.

[34] Furthermore, the trustees, facilitators, and administrators have not complied with their duties to prepare annual financial statements and maintain accounts, and the offshore investors were never informed of the 2024 sale of the remaining Fossil Creek lands or the expropriation sale of part of the Windridge lands: *Comeback Decision* at paras 37–40.

C. Procedural History

Initial Order

[35] On November 8, 2024, five individual Canadian investors in the Fossil Creek, Windridge, and Angus Manor projects filed an originating application for an initial order under the *CCAA*. They represented a very small proportion of the investors, dollarwise and numerically.

[36] The application for the Initial Order was effectively *ex parte* because the respondents were given fewer than two days’ notice.

[37] The application was made on an urgent basis because the Canadian investors had found out from a Facebook post that a sale of Angus Manor land in Ontario was imminent. They had not received notice of the sale. They were concerned by a lack of communication for several years, the fact that some companies involved in the investment structure had been struck from the corporate registry, and the lack of any financial returns.

[38] The Initial Order was granted by Feasby J on November 14, 2024. It identified various entities as Debtor Companies, which include the Texas LLCs and some of the Canadian WFC Entities. It also identified various entities as Affiliate Entities integrally related to the Debtor Companies’ businesses, including the other Canadian WFC Entities.[4]

[39] The Initial Order appointed the Monitor and gave it enhanced powers of management and control of the Debtor Companies and the Affiliate Entities, removing those powers from directors and officers. It granted a stay of proceedings against those entities and appointed separate representative counsel for all Canadian investors and all offshore investors. The Initial Order also scheduled a comeback hearing for November 21, 2024. That was a hearing *de novo* in which the Canadian applicants bore the burden of establishing that the Initial Order should be granted and that *CCAA* proceedings were appropriate.

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[4] The Debtor Companies include the Texas LLCs and some Canadian WFC Entities: Hills of Windridge A2A GP Inc and Fossil Creek A2A GP Inc. The Affiliated Entities include the rest of the WFC Entities (i.e., Hills of Windridge A2A LP, Hills of Windridge A2A Trust, Fossil Creek A2A Limited Partnership and Fossil Creek A2A Trust).

Amended and Restated Initial Order

[40] The comeback hearing began on November 21, 2024, with Simard J presiding. The appellants and other entities subject to the Initial Order cross-applied to have it set aside. The Monitor also applied to add the Hills of Windridge Trust and the Fossil Creek Trust to the *CCAA* proceedings.

[41] Justice Simard did not determine whether the *CCAA* proceedings were appropriate or whether the Initial Order should be set aside because he lacked sufficient information to do so. However, he decided some issues relevant to those topics and adjourned the remaining ones and the set aside application. He amended the Initial Order in various ways resulting in an Amended and Restated Initial Order (the *ARIO Decision*). He extended the stay of proceedings to enable the entities bound by it to provide specific categories of information and to enable the Monitor to provide a comprehensive report. The chambers judge also dismissed the Monitor's application to add the trusts to the *CCAA* proceedings because he lacked jurisdiction to do so.

Continuation of the Comeback Hearing

[42] The balance of the comeback hearing took place on January 17, 2025, this time before Feasby J. He concluded the Initial Order was correct and the *CCAA* proceedings were appropriate and dismissed the application to set aside the Initial Order: *Comeback Decision* at para 87.

III. DECISIONS APPEALED

A. The ARIO Decision

[43] The *ARIO Decision* resolved some of the issues relevant to whether the Initial Order should have been granted.

[44] The first issue was jurisdiction and service. The originating application for the Initial Order was made on imperfect notice to the appellants. Further, the applicant Canadian investors had "served" the originating application on the Texas LLCs in Texas without first obtaining an order permitting service outside Canada, as required by R 11.25(2)(b) of the *Alberta Rules of Court*, Alta Reg 124/2010. By the date of the first stage of the comeback hearing, the Texas LLCs had received notice of the Initial Order (including the comeback hearing) and no issue was raised about the service of that order. The chambers judge found that, despite improper service of the originating application, the Court had jurisdiction over the Texas LLCs.

[45] The second issue was whether the Canadian investors had standing to commence *CCAA* proceedings. The chambers judge found the Canadian investors had standing to apply for an initial order under the *CCAA* because they were "persons interested" under s 11.

[46] The third issue was the threshold condition of insolvency. Under s 3(1), the *CCAA* applies "in respect of a debtor company or affiliated debtor companies" if claims against them exceed $5 million. The definition of "debtor company" specifies that the company must be insolvent. The chambers judge found that, considered collectively, the entities bound by the Initial Order were insolvent. It was appropriate to consider insolvency collectively because their businesses were "inextricably intertwined" with respect to the three real estate projects.

B. The Comeback Decision

[47] The *Comeback Decision* confirmed the Initial Order and dismissed the application to set it aside. It addressed two main issues: (1) whether the *CCAA* proceedings were appropriate; and (2) whether the Texas LLCs could be subject to them. Before addressing those issues, however, the chambers judge made some factual findings.

[48] First, he found the entities bound by the Initial Order were unable or unwilling "to conduct a realization and distribution process that is fair to all investors": *Comeback Decision* at para 43. That was based on the failure of trustees, facilitators, and administrators under the Declarations of Trust and Deeds of Covenant to comply with their duties and evidence that investors had been paid selectively and disproportionately.

[49] Second, the chambers judge found the investors had not bargained "only" for the rights set out in the Declarations of Trust and Deeds of Covenant, such that it would be unfair for them to access statutory rights through the C*CAA* proceedings: *Comeback Decision* at paras 46–47. The real issue was whether the investors satisfied the requirements under the *CCAA*, not whether their contractual arrangement barred access to *CCAA* proceedings.

[50] The chambers judge divided the appropriateness of the *CCAA* proceedings into the following sub-issues.

1. Whether the insolvency condition of the *CCAA* was satisfied.
2. Whether "equity investors" could commence *CCAA* proceedings and whether the proceedings in this case would further the objectives of the *CCAA*.
3. Whether the applicant Canadian investors represented the interests of all investors.

[51] With respect to the insolvency condition, the chambers judge noted new evidence which confirmed the *ARIO Decision* on this point: *Comeback Decision* at para 48–54.

[52] The chambers judge rejected the argument that the "equity investors" could not commence *CCAA* proceedings because they were not "creditors" in the traditional sense: *Comeback Decision* at paras 58–59. The real question was whether the applicants' use of *CCAA* proceedings in this case is consistent with the purposes of the legislation. Two relevant purposes are preserving and maximizing the value of the debtor companies' assets and ensuring the fair and equitable treatment

of investors' claims. As noted, the chambers judge found that the entities subject to the Initial Order had shown that they would do neither. The Monitor could achieve both purposes, the second by administering a fair claims process aided by the stay of proceedings.

[53] An impediment to achieving those purposes with respect to Fossil Creek and Windridge was that the Texas entities that own the remaining lands and the proceeds of sale were not subject to the *CCAA* proceedings. If the Monitor could not gain control over those assets, there would be no prospect of preserving their value or fairly meeting the claims of investors. The chambers judge concluded that was not a fatal problem. It was reasonable that the Monitor had not yet put forward a detailed plan to gain control of the remaining assets, but the chambers judge ordered the Monitor to provide a plan within 21 days.

[54] The chambers judge also considered whether the *CCAA* proceedings were appropriate given that a majority of Canadian and offshore investors were not aware of them. The concern was that the expense would be partly borne by those investors. The chambers judge found that if it had been possible to inform all investors, a strong majority would support the *CCAA* process. As such, the proceedings were fair to the investors as a whole.

[55] Having concluded that the *CCAA* proceedings were appropriate, the chambers judge found that the Texas LLCs were properly subject to them. The Texas LLCs were incorporated outside Canada, did not have any assets in Canada, and were not doing business in Canada. Nevertheless, they came within the definition of "company" in s 2(1) of the *CCAA*, interpreted flexibly. Making the Texas LLCs subject to the *CCAA* proceedings would serve the purposes of the proceedings. partly because the Monitor might use them to get control over the remaining lands and sale proceeds.

IV. ISSUES ON APPEAL

[56] The general issues in these appeals are as follows.

1. Whether the applicants, as "equity investors", had standing to commence proceedings under the *CCAA*.
2. Whether the *CCAA* proceedings were improper because:
    a. they were inconsistent with the purposes of the *CCAA*;
    b. they were bound to fail or there was no plan to achieve their purposes; or
    c. they were not fair to other investors or the issuers of investment instruments.
3. Whether the decisions under appeal were procedurally unfair or misplaced the burden of proof.

[57] Issues specific to the Texas LLCs or the Canadian WFC Entities are as follows.

1. Were the Texas LLCs "debtor companies"? If not, did the court have statutory authority under the *CCAA* or inherent jurisdiction to subject the Texas LLCs to the Initial Order?
2. Did the chambers judge err in confirming the *CCAA* proceedings against the Texas LLCs despite the lack of an order permitting service on them in Texas?
3. Were the Canadian WFC Entities individually insolvent? If not, did the court have authority to subject them to the Initial Order?

[58] The issues engage several standards of review, which are addressed below.

V. ANALYSIS — General Issues

1. Whether the applicants, as "equity investors", could commence *CCAA* proceedings

[59] The Canadian investors who applied for the Initial Order, like the other respondent investors, are not owed a debt by the appellants or other entities involved in the Windridge and Fossil Creek projects. They are not creditors of the appellants. The *Comeback Decision* characterized them as equity investors and the issue is whether equity investors can ever commence *CCAA* proceedings.[5] The appellants argue that the answer is "no". We disagree.

[60] There is no known Canadian precedent for a court granting an initial order upon application by an equity investor. This is not surprising. *CCAA* proceedings are usually commenced by the insolvent debtor company. When the debtor company does not initiate proceedings, a secured creditor typically applies.

[61] The question is one of statutory interpretation, which requires the Court to conduct a textual, contextual, and purposive analysis of the relevant *CCAA* provisions to identify a meaning that is harmonious with the *Act* as a whole: ***Canada v Alta Energy Luxembourg SARL***, 2021 SCC 49 at para 29.

[62] We begin with the text. Nothing in the *CCAA* addresses specifically whether an equity investor can commence *CCAA* proceedings. Section 11.02 deals with the power of the court to order a stay of proceedings on an initial application, but it does not say who may bring an initial application. Section 11 confers broad power on the court to make orders it considers appropriate in the circumstances "on the application of any person interested in the matter". This makes plain

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[5] The parties on appeal treat "equity investors" as synonymous with having "equity interests" or "equity claims". However, strictly speaking, the investors do not have "equity interests" (defined as shares in a company or units in a unit trust) and do not have "equity claims" (defined as a claim in respect of an "equity interest" for a dividend, return of capital, and certain other claims). The parties' characterization of the investors as having "equity interests" and "equity claims" seems to be based on analogizing the investors' rights to the (typical) rights of a shareholder in a company. To avoid inaccuracy, we adopt the phrasing used in the *Comeback Decision*.

that an interested person may apply for an order, including an initial order. The question is whether equity investors are "interested persons" or "person[s] interested"[6] under the *CCAA*.

[63] Despite the frequent use of the term within it, the *CCAA* does not define who qualifies as an "interested person". Its interpretation depends partially on the surrounding statutory context. As the parties have argued, that context includes provisions which limit the rights of "equity claimants" in *CCAA* proceedings as compared with creditors:[7]

- Sections 4 and 5 provide that shareholders cannot meet and vote on a compromise or arrangement unless an application is made by a creditor, trustee in bankruptcy, or liquidator, and the court orders a meeting of shareholders.
- Section 6(1) provides that the votes of those with "equity claims" do not count in computing the voting requirement for approving a plan unless the court has ordered a meeting under ss 4 or 5.
- Section 22.1 provides that "equity claimants" must be placed in their own separate class and cannot vote on the plan unless the court orders otherwise.
- Section 6(8) prohibits the court from sanctioning a plan that pays out "equity claimants" before other claims are fully paid.

[64] What inferences should be drawn from this context? The appellants invite the inference that Parliament did not intend for equity investors to commence *CCAA* proceedings, given they have no unconditional right to participate once proceedings have started. We find a different inference more compelling: when Parliament intended to limit the rights of equity investors in *CCAA* proceedings compared with traditional creditors, it did so expressly. However, it chose broad language — "any person interested" — to identify those who may apply for an order in *CCAA* proceedings, which does not reflect an intention to exclude equity investors.

[65] The legislative background to ss 6(8) and 22.1 also gives reason to doubt that Parliament intended to exclude equity investors from the class of "interested persons". These provisions were introduced in 2009 to clarify that "equity claimants" rank beneath non-equity claimants in the order of priority and cannot recover money in *CCAA* proceedings before creditors have been paid in full. Consistent with the priority rule, equity investors can receive payment in circumstances when an insolvent debtor company has more than enough assets to satisfy non-equity claims. Further, the restrictions on the rights of equity investors to meet and vote on a compromise or plan in ss 4, 5, 6(1), and 22.1 enable the supervising court to dispense with meetings that would serve no useful

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[6] The *CCAA* does not delineate between terms "interested person" and "person interested". For simplicity, and except as otherwise noted, we use the term "interested person" to mean both in these reasons.

[7] The parties' arguments assumed that these provisions apply by analogy to equity investors who are not strictly "equity claimants".

purpose. That can be the case when the debtor company has insufficient assets to pay out non-equity claims, so equity investors stand to gain nothing from approval of a plan. The key point is that neither the priority rule, nor the restrictions on meetings and voting requires preventing equity investors from starting *CCAA* proceedings in all circumstances.

[66] Purposive considerations also support the view that an equity investor can be an "interested person" in appropriate circumstances, some of which we outline below.

[67] The *CCAA* has various broad remedial objectives that were articulated in ***9354-9186 Québec inc v Callidus Capital Corp***, 2020 SCC 10 at para 40: (1) resolving a debtor's insolvency efficiently and impartially; (2) preserving and maximizing the value of the debtor's assets; (3) treating claims against a debtor fairly and equitably; (4) protecting the public interest; and (5) balancing the costs and benefits of restructuring or liquidation. The phrases "any person interested" and "interested person" should be interpreted in a manner consistent with those objectives.

[68] Allowing a person with no financial interest in *CCAA* proceedings to commence them will rarely be an effective way to further the relevant objectives. To further the *CCAA*'s remedial objectives, the term "interested person" should, at a minimum, be read as referring to someone with a financial interest in the *outcome* of the proceedings. For an equity investor to be an "interested person", they must at least have the potential to share in the payment of funds from a successful compromise or arrangement. Whether that is so will depend on the financial situation of the debtor company.

[69] The *CCAA* only applies when a debtor company is insolvent. There are various tests for insolvency under s 2(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, broadly divisible into "balance sheet" insolvency (where the value of total liabilities exceeds the debtor company's assets) and "cash flow" insolvency (where the debtor company is unable to meet its obligations as they fall due, but its total assets may exceed the value of non-equity claims): Roderick J Wood, *Bankruptcy and Insolvency Law*, 3rd ed (Toronto: Irwin Law, 2025) at 19–22.

[70] When a debtor company is "cash flow" insolvent at the time of the initial application — which the *Comeback Decision* called a "liquidity crisis" — equity investors may have a financial interest in the outcome of the *CCAA* proceedings because they could potentially receive payment under a compromise or arrangement, despite ranking below creditors in priority under s 6(8). As noted in the *Comeback Decision* at para 59, in a liquidity crisis, equity investors may have a significant financial interest in the debtor company. On the other hand, where the debtor company is "balance sheet" insolvent at the time of the initial application, it does not have sufficient assets to satisfy creditors' claims, and equity investors usually have no financial interest in the outcome of proceedings given their priority ranking: ***Re Canadian Airlines Corporation***, 2000 ABQB 442 at para 143.

[71] This interpretation aligns with the operation of the *CCAA* at later stages after the grant of an initial order. For example, when the court is deciding whether to approve a plan already voted

on, it must consider whether the plan is reasonable to shareholders if, at that time, the assets of the debtor company have a value greater than the claims of creditors: ***Re Stelco Inc***, [2006] OJ No 276 at para 16, 2006 CarswellOnt 406 (SC). It would be anomalous that the court must consider fairness to equity investors in *CCAA* proceedings started by a debtor company or creditor but need not consider them at all if those parties are unwilling to commence proceedings and equity investors are unable to do so: see *Comeback Decision* at para 59.

[72] It is impractical to expect an equity investor to prove a debtor company is cash flow insolvent and its assets exceed the value of the creditors' claims at the initial application stage. Applicants rarely have an exhaustive list of all the debtor company's assets and liabilities at that stage. The most that can be expected is for an equity investor to show there is a reasonable possibility that the value of the assets exceeds the value of non-equity claims.

[73] In this case, there is little information about whether the appellants were cash flow insolvent, balance sheet insolvent, or both. The Monitor's reports make clear that there are no known secured creditors, and the Monitor advised the Court during the appeal hearing that creditor claims are insubstantial. The investors describe themselves as "fulcrum" stakeholders, by which they mean that there is value in the appellant entities available to them. That is consistent with representations made by counsel at the November 14, 2024 hearing, which the appellants have not disputed. In the circumstances, we agree with the finding in the *ARIO Decision* that the applicant Canadian investors, and the investors at large, were "interested persons" who could apply for the Initial Order.

[74] In summary, equity investors can commence *CCAA* proceedings if they are "persons interested" under s 11 of the *CCAA*. That can be the case when there is a reasonable possibility at the time of the initial order that the debtor company is "cash flow" insolvent and has greater total assets than liabilities. We hasten to add that an application by an "interested person" is only a necessary condition for granting an initial order, and there are innumerable reasons why an initial order sought by an equity investor might not be appropriate in the circumstances. In this case, one important consideration was that no creditors objected to the investors' initial application.

2. Whether the *CCAA* proceedings were improper because: (a) they were inconsistent with the purposes of the *CCAA*; (b) they were bound to fail or there was no plan to achieve their purposes; or (c) they were not fair to other investors or the issuers

a. Consistency with the purposes of the *CCAA*

[75] As noted, s 11 of the *CCAA* grants broad authority to the court to make orders it considers appropriate in the circumstances. The appropriateness of an order depends on whether it would advance the underlying objectives of the *CCAA*: ***Century Services Inc v Canada (Attorney General)***, 2010 SCC 60 at para 70.

[76] In this case, the *Comeback Decision* found that the Initial Order and the *CCAA* proceedings would further at least two objectives of the *CCAA*: preserving the value of the debtor's assets and fair treatment of investors' claims. The appellants acknowledge these were proper purposes, subject to a qualification addressed below.

[77] The *CCAA* is an insolvency statute because it applies "in respect of" insolvent debtor companies and, as such, it shares the general remedial objectives of Canada's insolvency statutes articulated in ***Callidus***: see paragraph 67 above. Historically, the distinctive objective of *CCAA* proceedings was to help an insolvent company remain in business by reaching a compromise with its creditors under judicial supervision, as opposed to liquidating its assets to satisfy creditor claims: ***Callidus*** at para 41. The preservation of the debtor company's business as a going concern typically involves a compromise of its debt and some kind of business restructuring.

[78] However, the survival of the debtor company's business is not an essential objective of the *CCAA*. The courts have recognized the legitimacy of "liquidating CCAAs" in which the debtor company's assets are sold, and the proceeds are distributed to creditors and stakeholders: ***Callidus*** at para 42. The debtor company's business might survive the liquidation process (e.g., if it is sold as a going concern), but it might not (e.g., if the assets are sold piecemeal).

[79] The *CCAA* proceedings in this case have evolved into a kind of liquidating *CCAA*.[8] The *Comeback Decision* identified its purposes as preserving the value of the remaining assets held by entities within the Fossil Creek and Windridge investment structure,[9] realizing those assets, and ensuring the fair treatment of investors' claims by distributing the assets through a claims process administered by the Monitor: *Comeback Decision* at paras 64, 68. Those objectives required the Monitor to take control of the entities involved in the Fossil Creek and Windridge projects, largely because existing management was unwilling or unable to preserve the value of the assets and to treat investors fairly. Returning money to the investors would involve the Monitor selling the remaining lands: *Comeback Decision* at para 70.

[80] The appellants argue that the original purposes of the Initial Order were *not* preserving assets and fairly returning value to investors but rather appointing the Monitor to investigate the entities subject to the Initial Order and to gather information. Both decisions under appeal noted that, initially, the Monitor's primary task was investigation: *Comeback Decision* at para 69; *ARIO Decision*, AR, 88/29. The appellants argue that the *CCAA* cannot be used for the sole purpose of investigating debtor companies although other legal mechanisms may be available for doing so, such as an investigative receivership.

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[8] At the hearing of the originating application, counsel for the applicant investors did not know whether the proceedings would be used to liquidate the entities' businesses or restructure them: AR, 117.

[9] Namely, the remaining proceeds of sale and the unsold lands.

[81] We agree that initial orders should not be granted for the sole purpose of gathering information about debtor companies: that is not among the remedial objectives of the *CCAA* identified in ***Callidus***. That is not what happened here, however. In this case, as in many others, conducting an investigation was a necessary step to achieving other legitimate objectives of *CCAA* proceedings. The purpose of authorizing the Monitor to investigate the debtor companies and affiliated entities was to determine whether they held assets that the Monitor might gain control of and distribute fairly among the investors and other stakeholders: *Comeback Decision* at para 1. Both were valid objectives under the *CCAA*.

b. Whether the *CCAA* proceedings were bound to fail or lacked a "germ of a plan"

[82] The appellants raise various issues regarding the likelihood that the *CCAA* proceedings will achieve their stated purposes — namely, preserving the value of the remaining Fossil Creek and Windridge assets and fairly distributing them to investors and other stakeholders through a fair claims process.

[83] One argument made at the comeback hearing is that the proceedings were "doomed to fail". The only Fossil Creek and Windridge assets known to remain are the unsold Windridge lands, the proceeds of the expropriation sale of part of the Windridge lands, the one remaining Fossil Creek lot, and the proceeds of the 2024 sale of the Fossil Creek lands. Those assets are held by Texas entities that are not subject to the *CCAA* proceedings: Trails of Fossil Creek Properties LP, the Hills of Windridge Trust, and Hills of Windridge LP.

[84] To achieve the objectives of asset preservation and fair distribution, the Monitor must gain control of the remaining land and proceeds in Texas. The appellants argue that it is impossible to do so because the Monitor has no powers of management or control over the Texas entities that hold those assets.

[85] This argument must fail given the applicable standard of review. In the *Comeback Decision*, the chambers judge found it was premature at the second stage of the comeback hearing to conclude the Monitor would fail to gain control of the Texas assets: *Comeback Decision* at para 67. The Monitor might be able to exercise its powers over the Texas LLCs under the Initial Order to take legal action in Texas against the Texas entities that hold the remaining assets. The Texas LLCs were involved in the 2024 sale of the Fossil Creek lands and the expropriation sale of part of the Windridge lands, and they may have legal claims to the remaining assets that the Monitor can bring on their behalf. These are factual findings and the appellants have neither argued, nor demonstrated, that they reflect palpable and overriding error. Indeed, developments since the comeback hearing have reinforced it. In March 2025, a different chambers judge approved the Monitor's plan to "repatriate" the Texas assets, which further indicates that the *CCAA* proceedings are not "doomed to fail". That decision is not under appeal.

[86] The appellants make a related but different argument about the prospect of success in this case. A line of case law originating in ***Re Inducon Development Corp***, [1992] OJ No 8 at para 14, 1991 CarswellOnt 219 (Ct J (GD)) establishes that an applicant for an initial order under the *CCAA* must have, at the very least, a "germ of a plan" for using the *CCAA* process to achieve the remedial purposes of the legislation.[10] In a typical *CCAA* proceeding, that means having a "germ of a plan" for compromising creditors' claims and perhaps restructuring the debtor companies. In this case, it means having a "germ of a plan" for preserving the value of the Texas assets and fairly distributing them to investors and stakeholders.

[87] The *Comeback Decision* concluded that the applicant investors and the Monitor did have a "germ of a plan" to achieve those objectives, namely selling the remaining land in Texas and returning the money to investors: *Comeback Decision* at para 70. The appellants argue this reflects error. They say that any "germ of a plan" to preserve and distribute the value of the Texas assets must include steps for acquiring control of those assets, which are currently outside the reach of the *CCAA* proceedings. Since the Monitor had not proposed a way of doing that, there was no "germ of a plan" at the comeback hearing. The appellants characterize this as an error of law about the meaning of the "germ of a plan" requirement. We disagree.

[88] The legal authorities do not specify the level of detail that is required for a "germ of a plan". ***Inducon*** at para 14 distinguishes between a germ of a plan, an outline of a plan, and a formalized plan. A "germ of a plan" is something less detailed than an outline of a plan. At the very least, it must identify the aims of the *CCAA* proceeding, although it will contain few details about how the proceedings will achieve them. Applicants must provide some sense of what they intend to do, so the court can assess whether there is a reasonable possibility of success: ***Azure Dynamics Corporation (Re)***, 2012 BCSC 781 at para 13.

[89] The phrase "germ of a plan" is another name for the requirement of a reasonable possibility that the *CCAA* proceedings will succeed in their purposes: ***Alberta Treasury Branches v Tallgrass Energy Corp***, 2013 ABQB 432 at para 14; ***Industrial Properties Regina Limited v Copper Sands Land Corp***, 2018 SKCA 36 at para 20. Without a reasonable possibility of success, the expense and disruption of *CCAA* proceedings are unjustifiable. What courts consider to be a reasonable possibility of success is context-dependent, and relevant context can include whether there are creditors opposed to the proceedings or whether the management of the debtor company is merely using the *CCAA* proceedings as a tactic to delay creditors: ***Tallgrass Energy*** at para 14; ***Montreal Maine & Atlantic Canada Co (Plan of arrangement) (Arrangement relatif à)***, 2015 QCCS 5896 at para 29.

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[10] Numerous cases have followed ***Inducon***, including ***Alberta Treasury Branches v Tallgrass Energy Corp***, 2013 ABQB 432 at para 14; ***Industrial Properties Regina Limited v Copper Sands Land Corp***, 2018 SKCA 36 at para 20; ***Nuance Pharma Ltd v Antibe Therapeutics Inc***, 2024 ONSC 7210 at para 96.

[90] The "germ of a plan" requirement is not onerous. The reason is obvious: it applies to initial orders. At that stage of *CCAA* proceedings, applicants often lack detailed information about the affairs of the debtor companies, which limits their ability to formulate a plan to achieve the objectives of the proceedings. That is especially true in creditor- or investor-driven *CCAA* proceedings, where the applicants rarely have access to all the debtor company's records.

[91] In this case, the finding in the *Comeback Decision* that the applicant investors had established a reasonable possibility that the proceedings would achieve their objectives was one of mixed fact and law, reviewable for palpable and overriding error. At the comeback hearing, there was relatively little information about the inner workings of the Fossil Creek and Windridge entities, partly due to the failure of some of them to meet their reporting obligations to investors. That was a relevant consideration in assessing whether there was a reasonable possibility of success. While success was dependent on the Monitor gaining control of the Texas assets, it was open to the chambers judge to find it was a possible outcome and not bound to fail.

[92] We provide a note of qualification. The fact that there was a sufficient "germ of a plan" to begin *CCAA* proceedings does not mean that it is appropriate to continue them indefinitely. If information becomes available that raises doubts about the prospects of success, an interested party can apply to terminate the proceedings.

c. Fairness to other investors and issuers

[93] The appellants argue that the *CCAA* proceedings are inappropriate because they are unfair to most investors in the Fossil Creek and Windridge projects. They also argue that enabling investors to seek relief in *CCAA* proceedings gives them rights they did not bargain for. Although the latter argument is not phrased in terms of fairness, in essence, it asserts that the *CCAA* proceedings are unfair to the entities that issued trust units to the Canadian investors and UFIs to the offshore investors.

[94] As noted, the court has authority under s 11 of the *CCAA* to make any order it considers appropriate in the circumstances, including initial orders. The finding in the *Comeback Decision* that the Initial Order was appropriate — among other things, because it was fair to the majority of investors and the issuing entities — was an exercise of discretion, owed deference absent an error of principle or a clearly wrong finding amounting to an injustice: ***Penner v Niagara (Regional Police Services Board)***, 2013 SCC 19 at para 27; ***Callidus*** at para 53; ***Atlantic Sea Cucumber Ltd v Weihai Taiwei Haiyang Aquatic Food Co Ltd***, 2024 NSCA 35 at para 34.

[95] The issue of fairness to investors arises because the large majority of investors in the Fossil Creek and Windridge projects are unaware of the *CCAA* proceedings. The costs of the proceedings — such as the Monitor's fees and representative counsel's fees — will be taken out of the assets that are liquidated before any money is returned to investors. Most investors have not agreed to that.

[96] The *Comeback Decision* concluded that the *CCAA* proceedings were fair nonetheless because, "if it was possible to contact and inform all investors, a strong majority would support the *CCAA* process": *Comeback Decision* at para 74. That was based on a further factual finding that representative counsel had done what they could to contact investors and, of those contacted, the vast majority supported the proceedings: *Comeback Decision* at paras 72–74.

[97] Those findings and inferences do not reflect any error of principle or clear error of fact. Indeed, they accord with a common sense view of the investors' predicament. Given the "general disregard" for investors' rights, the large majority of investors are unlikely to receive any returns outside the *CCAA* proceedings: *Comeback Decision* at para 43. These proceedings provide some chance of a return, even though the proceeds available for distribution will be reduced by the lawyers' and Monitor's fees, and other costs.

[98] The other fairness argument is that the investors bargained only for the limited contractual rights set out in the Deeds of Covenant, Declarations of Trust, and original offering memorandums. The appellants argue that those rights expose investors to the risk of receiving no returns on their investment and, if the Fossil Creek and Windridge entities have breached investors' contractual rights, the investors' recourse should be limited to suing for breach of contract. Allowing them access to relief under the *CCAA* would give them rights they have not paid for.

[99] The *Comeback Decision* rejected the same argument for two reasons. One was that the investors did not "bargain" for anything when they purchased the trust units and UFIs, if "bargaining" means "negotiating". The units and UFIs were offered on a "take it or leave it" basis: C*omeback Decision* at paras 46–47. The other reason was that the language of the Deeds of Covenant, Declarations of Trust, and original offering memorandums did not purport to exclude investor access to, or reliance on, proceedings under the *CCAA*: *Comeback Decision* at para 47.

[100] Both are findings of mixed fact and law, about the way the securities were marketed and the interpretation of the transaction documents. Neither reflects a palpable and overriding error. We conclude that the process by which investors purchased their investments and the transaction documents governing them do not bar investors from commencing *CCAA* proceedings.

3. Whether the decisions were procedurally defective

a. Did the original short notice application make the subsequent decisions unfair?

[101] When the Canadian investors applied for the Initial Order, they gave the appellants fewer than two days' notice, instead of the 10 days required under R 3.9 of the *Rules*. Given the volume of materials, the application was effectively made without notice (i.e., *ex parte*).

[102] There are various objections to the initial *ex parte* application, but the main one is that it rendered the Initial Order, the *ARIO Decision*, and the *Comeback Decision* procedurally unfair.

[103] Considered in isolation, the Initial Order was procedurally unfair. However, the Initial Order is not under appeal. More importantly, the fairness of the *CCAA* proceedings should not be judged based on the initial application alone. The point of the comeback hearing was to re-hear the original application on notice to the appellants at which time the applicant investors still bore the burden of proof. The appellants had notice of both stages of the comeback hearing and a fair opportunity to make submissions. Since the burden remained with the applicant investors at the comeback hearing, the *ex parte* Initial Order did not result in procedural prejudice to the appellants.

[104] In short, the *ARIO Decision* and the *Comeback Decision* were procedurally fair.

[105] The appellants also argue that the *ex parte* application for the Initial Order was unwarranted and that the order should be set aside for that reason.

[106] Debtor companies frequently obtain initial orders under the *CCAA* with little or no notice to interested stakeholders. Indeed, the template initial order commonly used in Alberta includes a provision abridging the notice period that would ordinarily apply. Section 11 of the *CCAA* contemplates applications made "on notice to any other person or without notice as it may seem fit". Of course, it does not follow that short notice or *ex parte* initial orders are always appropriate. The applicant must provide evidence of urgent circumstances requiring an immediate order and show that giving full notice to stakeholders is not possible given the urgency.

[107] There were, or appeared to be, urgent circumstances justifying the *ex parte* application for the Initial Order against entities connected to the Angus Manor project. The applicant investors had learned from Facebook that a sale of the Angus Manor land in Ontario was imminent and that conditions on the sale would be waived on November 15, 2024 (i.e., the day after the initial hearing): *Comeback Decision* at paras 7–8. However, the applicants were aware that the Fossil Creek and Windridge projects were carried out through distinct corporate structures and did not allege urgent circumstances justifying *ex parte* relief against entities related to those projects.

[108] The appellants argue that the proper response to an unwarranted *ex parte* application for an initial order under the *CCAA* is to set it aside at the comeback hearing, even if the order is justified on its merits. There is little authority to support that position, however. In two cases, courts set aside an *ex parte* initial order after a comeback hearing and noted that the original *ex parte* application was not justified by urgent circumstances: ***Marine Drive Properties Ltd (Re)***, 2009 BCSC 145; ***Encore Developments Ltd (Re)***, 2009 BCSC 13. In both, the court found that the proceedings were unlikely to succeed or had no utility in the circumstances: ***Marine Drive*** at para 32; ***Encore Developments*** at paras 7–8, 23–25. Neither case involved the court ending *CCAA* proceedings that were meritorious for the sole reason that the initial *ex parte* application was unjustified. No authority was cited, nor did we find any, for the equivalent proposition outside the *CCAA* context in general civil litigation.

[109] The rule proposed by the appellants would be a disproportionate response to unjustified *ex parte CCAA* applications. It could disincentivize justified *ex parte* applications, as well as

unjustified ones, and would require the termination of meritorious *CCAA* proceedings which may benefit multiple stakeholders and the public at large because they were started without adequate notice. In most cases, any procedural prejudice from an unwarranted *ex parte* initial application is eliminated by comeback hearings on full notice to the appellants. In some circumstances, it may be appropriate to impose cost consequences on applicants who make unwarranted *ex parte* applications.

b. Did the decisions misplace the burden of proof?

[110] At the comeback hearing, the applicant Canadian investors retained the burden of establishing the prerequisites for the *CCAA* to apply and that the Initial Order was appropriate in the circumstances.

[111] The appellants argue that the *ARIO Decision* misplaced the burden of proof. The chambers judge concluded that he did not have enough information to decide whether the *CCAA* proceedings should continue. He instructed the Monitor to include information about various topics in its next report: the rights of each class of investors, ownership of the properties, value of the properties, the marketing of the properties, and the investor approval process for any sales: AR, 94/1–17. The chambers judge extended the stay of proceedings to enable the Monitor to obtain the required information and the Initial Order remained in force, slightly amended: AR, 98/6–10.

[112] Given that the chambers judge lacked evidence necessary to determine whether the Initial Order was appropriate, the burden of proof at a comeback hearing would ordinarily have required termination of the proceedings. The issue is whether the facts engage an exception to the normal burden of proof at a comeback hearing. The investors argue that they do: some of the appellants were to blame for the missing information because they did not meet their obligations under the Deeds of Covenant and the Declarations of Trust. We agree.

[113] The Canadian investors in Fossil Creek and Windridge had a right to receive annual financial statements from the administrator[11] of the trusts before each meeting of unitholders. The administrator failed to provide that information and did not maintain financial records: *Comeback Decision* at paras 36, 39. The offshore investors had a right to inspect books and records maintained by the facilitator,[12] but no such records were kept: *Comeback Decision* at paras 37, 40. They had the right to vote on sales of the Fossil Creek and Windridge lands, but their approval was never sought.

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[11] A2A Capital Management Inc (later renamed to Serene Country Homes (Canada) Inc).

[12] Fossil Creek LLC and Windridge LLC.

[114] We infer that the applicant investors lacked financial information about the projects and, most likely, the sales and marketing of the lands due to non-compliance by some of the appellants. This comprises most of the missing information identified in the *ARIO Decision*.

[115] The allocation of the burden of proof in civil cases is not immutable and can be sensitive to considerations of fairness and the relative knowledge of the parties: ***Freyberg v Fletcher Challenge Oil and Gas Inc***, 2005 ABCA 46 at para 75. If material information was exclusively within the knowledge or control of one party, fairness may require adjusting the burden of proof that normally applies: ***Canada v Anchor Pointe Energy Ltd***, 2007 FCA 188 at para 36. That is the case here. The applicant investors lacked the information identified in the *ARIO Decision* because the information had been wrongly withheld from them. It would have been unfair to put the burden on the applicant investors to adduce evidence that was not within their knowledge or control.

VI. ANALYSIS — Specific Issues

1. Are the Texas LLCs "debtor companies"? If not, did the court have statutory authority or inherent jurisdiction to subject the Texas LLCs to the Initial Order?

a. *Factual and legal background*

[116] The Texas LLCs were incorporated in Texas and played a significant role in obtaining investment from Canadian investors for the Fossil Creek and Windridge projects in 2014 and 2015. By the date of the Initial Order, however, they were not conducting business in Canada (*Comeback Decision* at para 76), and there is no evidence that they owned any assets in Canada.

[117] Based on those facts, the Texas LLCs did not qualify as "debtor companies" under the *CCAA*. The *Comeback Decision* concluded otherwise, applying a "flexible" interpretation of the definitions of "debtor company" and "company" in s 2(1): *Comeback Decision* at para 77. However, the wording of those definitions leaves no room for flexibility on these facts. It is clear that a company incorporated outside Canada is a debtor company only if it conducts business in Canada or has assets in Canada.

[118] The issue, then, is whether the courts below had authority to subject the Texas LLCs to the Initial Order, including the provisions granting enhanced powers to the Monitor, given that they were not debtor companies.

[119] There are two potential sources of the court's authority to subject non-debtor companies to initial orders in *CCAA* proceedings. First, there is the statutory authority under s 11 of the *CCAA* to make "any order" considered appropriate:

> 11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may,

> subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Section 11 is complemented by the more specific authority under s 11.02 to grant a stay of proceedings on an initial application.

[120] The second source is the court's inherent jurisdiction to control its own processes: Janis P Sarra, *Rescue! The Companies' Creditors Arrangement Act*, 2nd ed (Toronto: Thomson Reuters, 2013) at 100. There is, however, a hierarchy between these sources of authority. Courts must look to the statute first before relying on inherent jurisdiction to ground orders made in *CCAA* proceedings: ***Century Services*** at para 65.

b. ***Authority under s 11 to make initial orders against non-debtor companies***

[121] The Texas LLCs argue that courts lack statutory authority under s 11, or any other provision, to make orders against non-debtor companies. They accept that courts have inherent jurisdiction to stay proceedings against non-debtor entities in aid of the *CCAA* process, but submit that it goes no further than granting stays. We disagree. Supervising courts have statutory authority under s 11 to subject non-debtor companies to initial orders where it is appropriate in the circumstances.

[122] The starting point is s 3(1) of the *CCAA,* which states when the *Act* applies:

> 3 (1) This Act applies in respect of a debtor company or affiliated debtor companies if the total of claims against the debtor company or affiliated debtor companies, determined in accordance with section 20, is more than $5,000,000 or any other amount that is prescribed.

The relevant feature for present purposes is that the *Act* applies "in respect of a debtor company or affiliated debtor companies".

[123] The parties advance different interpretations of s 3(1) and its relationship with s 11. The Texas LLCs argue that s 3(1) means that the *CCAA* only applies "to" debtor companies and that it limits the court's statutory authority to making orders binding debtor companies alone. The respondents argue that s 3(1) merely triggers the application of the *CCAA* without limiting the scope of the court's authority under s 11 or other provisions. In other words, once the s 3(1) threshold is met — there is a debtor company or affiliated debtor companies against which claims exceed $5 million — the *CCAA* applies and the powers under the *Act* are vested in the supervising court.

[124] In our view, the respondents' interpretation is better supported by the text of ss 3(1) and 11, the purposes of the *CCAA*, and the case law interpreting those provisions.

[125] Section 3(1) is expressed in very broad language. It states that the *CCAA* applies "in respect of a debtor company", not that it applies "to debtor companies". The words "in respect of" create the widest possible scope when connecting subject matters: ***Poonian v British Columbia (Securities Commission)***, 2024 SCC 28 at para 36. The language leaves open the possibility that the *CCAA* authorizes courts to make orders binding non-debtor companies that are appropriately connected to a debtor company.

[126] The language of s 11 is also very broad. It requires an application be made "in respect of a debtor company" before the court's authority is engaged, but there is no language that limits the orders it may make to those binding debtor companies. Rather, the court may make "any order" it considers appropriate in the circumstances.

[127] This interpretation of the relationship between ss 3(1) and 11 is more conducive to achieving the *CCAA*'s objectives. Orders binding non-debtor companies are sometimes necessary to avoid frustrating the purposes of a particular proceeding. A stay of proceedings against a non-debtor company whose business is intertwined with that of the debtor company may be necessary to give the debtor company the latitude necessary to develop a restructuring strategy. This case presents a different example: to preserve the value of debtor companies' assets and distribute them fairly to stakeholders, it is necessary to grant the Monitor power to use the Texas LLCs' causes of action to gain control of the remaining assets in Texas. No doubt, the actual words of ss 3(1) and 11 cannot be distorted to make it a more useful tool for achieving the *CCAA*'s purposes: ***R v Breault***, 2023 SCC 9 at para 26. But given the very broad language of ss 3(1) and 11, the interpretation under consideration does not raise that concern.

[128] The case law provides some support for each view of how s 3(1) operates. The view that s 3(1) limits the scope of the court's statutory authority to orders against debtor companies is reflected in ***Re Lehndorff General Partner Ltd*** (1993), 17 CBR (3d) 24 at paras 14–16, [1993] OJ No 14 (Ct J (GD)); ***Re Calpine Canada Energy Limited (Companies' Creditors Arrangements Act)***, 2006 ABQB 153 at paras 33–34; ***Canwest Publishing Inc***, 2010 ONSC 222 at paras 33–34; ***Great Basin Gold Ltd (Re)***, 2012 BCSC 1459 at para 104; ***Re Just Energy Corp***, 2021 ONSC 1793 at para 116; ***Re 4519922 Canada Inc***, 2015 ONSC 124 at para 37

[129] However, a substantial body of cases also supports the contrary view. In several cases, courts have made orders binding non-debtor companies relying on statutory authority under ss 11, 11.02, or other provisions*:* ***Arrangement relatif à Bloom Lake General***, 2021 QCCS 2946 at paras 47, 103–104; ***In Re Hudson's Bay Company***, 2025 ONSC 1530 at paras 40–48, 79–82 ***Pacific Exploration & Production Company (Re)***, 2016 ONSC 5429 at paras 26–27; ***BZAM Ltd Plan of Arrangement***, 2024 ONSC 1645 at paras 16, 42–43; ***JTI-Macdonald Corp, Re***, 2019 ONSC 1625 at para 14; ***In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al***, 2024 ONSC 6199 at paras 3, 37; ***Re Chalice Brands Ltd***, 2023 ONSC 3174 at paras 6, 35–36; ***Homburg Invest Inc (Arrangement relatif à)***, 2011 QCCS 4989 at paras 9, 12, 35; ***Miniso International Hong Kong Limited v Migu Investments Inc***, 2019 BCSC 1234 at paras

58–59, 62; ***1057863 BC Ltd (Re)***, 2024 BCSC 1111 at paras 33–34, 46–50. While the reasons in these cases are not extensive, the courts clearly regarded 3(1) as a trigger to the application of the *CCAA*, not as a limit on the scope of their authority under it.

[130] Adopting the Texas LLCs' interpretation of s 3(1) would require recharacterizing most of the decisions mentioned as resting on the courts' inherent jurisdiction rather than on statutory authority. Some cases, such as ***Bloom Lake*** and ***1057863 BC Ltd (Re)***, resist that kind of recharacterization because the courts went beyond granting a stay of proceedings and appointed a monitor with varying powers over non-debtor companies. On the Texas LLCs' argument, the courts would have exceeded their inherent jurisdiction — and their lawful authority — by doing so. In our view, there is no compelling reason to reinterpret the cases in this way. Their outcomes and reasoning are supported by a textually grounded interpretation of s 3(1) as a trigger, not a limit, on the courts' statutory authority. Recasting some cases as exercises of inherent jurisdiction would also conflict with the principle that courts should, where possible, ground their authority in the *CCAA* itself rather than in inherent jurisdiction. As explained above, s 11 is broad enough to authorize orders binding non-debtor companies.

c. *Authority under s 11 to appoint a "super-monitor" over non-debtor companies*

[131] The Texas LLCs also argue that courts in *CCAA* proceedings lack any authority — statutory or inherent — to grant a monitor powers of management and control (so-called "super-monitor" powers) over non-debtor companies.

[132] There are several cases in which courts have exercised statutory authority to appoint monitors with "ordinary" investigative and reporting powers in relation to non-debtor companies[13] and at least one case, ***Bloom Lake***, where the Court granted the monitor expanded powers to investigate a non-debtor company. There are, however, no reported decisions in which a court granted a monitor powers to manage a non-debtor company's business and control its assets. Nonetheless, there is no principled basis for drawing a sharp distinction between the court's authority to appoint an "ordinary" monitor and a "super-monitor" over non-debtor companies.

[133] Courts undoubtedly have statutory authority to grant monitor powers to manage and control debtor companies, and the most plausible source of that authority is s 11 of the *CCAA*: Vern W DaRe & Alfonso Nocilla, "Bestriding the Narrow World: Is It Time to Bifurcate the Role of the *CCAA* Monitor?" (2020) 18 Annual Rev Insolvency L 224 at 236–239; ***Arrangement relatif à 9323-7055 Québec inc (Aquadis International Inc)***, 2020 QCCA 659 at para 68; ***Mantle Materials Group, Ltd (Re)***, 2024 ABKB 19 at para 66. As explained in the previous section, the

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[13] Unreported orders include: (1) ***Re Sandvine Corporation*** (15 November 2024), ONSC CV-24-00730836-00CL (Order of Osborne J); (2) ***Re Peavy Industries General Partner Ltd*** (6 February 2024), Calgary, ABKB 2501-01350 at para 4 (Order of Johnston J); (3) ***Re Just Energy Group Inc*** (19 March 2021), ONSC CV-21-00658423-00CL (Order of Koehnen J); (4) ***Re Hudson's Bay Company ULC Compagnie de la Baie D'Hudson*** SRI (7 March 2025), ONSC CV-25-00738613-00CL at para 3 (Order of Osborne J).

courts' authority under s 11 is not limited to making orders against debtor companies, so their authority to appoint "super monitors" is not limited in that way either.

[134] The Texas LLCs rely on the Ontario Court of Appeal's decision in ***Stelco Inc (Re)***, 2005 CanLII 8671 (ONCA) [***Stelco ONCA***] to support the proposition that courts lack authority to grant a monitor powers of management and control over non-debtor companies. In our view, that decision is distinguishable. ***Stelco ONCA*** did not address the alleged difference between the courts' authority over debtor companies and non-debtor companies. Rather, the Court held that s 11 does not grant courts authority in *CCAA* proceedings to remove directors from a debtor company because the *Canada Business Corporations Act*, RSC 1985, c C-44 prescribes a process for their removal: ***Stelco ONCA*** at paras 47–50. Its core holding is that s 11 does not authorize the court to make orders where a specific statutory scheme otherwise exits: ***Stelco ONCA*** at para 48.

[135] That issue does not arise in the present appeals. Here, the Initial Order did not remove the directors of the Texas LLCs — it removed some of their powers of management and control and granted them to the Monitor, an issue not addressed by ***Stelco ONCA***. Insofar as ***Stelco ONCA*** may be read as doubting the courts' statutory authority to grant such powers to a monitor, it has been overtaken by later developments. It predates the more frequent use of use of "super-monitors" and the 2009 amendments to the *CCAA*, which expanded monitors' functions and duties.

d. *Summary*

[136] In summary, the courts below had statutory authority under s 11 of the *CCAA* to subject the Texas LLCs to the Initial Order (including provisions granting enhanced monitor powers), even though the Texas LLCs were not debtor companies at the time.

[137] The fact that the courts have authority to make orders against non-debtor companies, particularly foreign incorporated companies, does not mean that it is always appropriate to exercise it. These appeals did not raise the tricky issue of which factors or principles should structure the exercise of the court's authority.[14] At a minimum, the non-debtor company must be integrally and closely related to the debtor companies' business such that the order is necessary to achieve the purposes of the proceedings. Further obstacles arise when a court is asked to grant a monitor powers to manage a foreign incorporated company, such as the monitor's capacity to comply with the corporate law of another country. Since these issues were not raised in the appeals, we refrain from commenting on them.

[138] Finally, we note the Texas LLCs' brief argument that the courts below erred in granting a stay of proceedings against them. They submit the stay did nothing to further the purposes of these

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[14] The Texas LLCs' factum argued that the courts below erred in granting the Monitor powers to manage and control their business by failing to apply the law on interim injunctions. However, counsel clarified at the hearing that the argument assumed that the courts lacked statutory authority to grant these powers to the Monitor. As we have explained in the text, the courts had the statutory authority to do so.

CCAA proceedings because the Texas LLCs have been inactive for a long time and have no assets. The *Comeback Decision* found, however, that the Texas LLCs played an active role in the 2024 sales of project lands and that their inclusion in the *CCAA* proceedings was integral to their success. These are findings of fact, or of mixed fact and law, reviewable for palpable and overriding error, and none has been shown.

2. Did the court err in confirming the *CCAA* proceedings against the Texas LLCs despite the lack of an order permitting service on them in Texas?

[139] The applicant Canadian investors served their originating application for the Initial Order on fewer than two days' notice to the respondents, including the Texas LLCs. They served the application on the Texas LLCs by courier delivery to an individual in Texas without obtaining an order under R 11.25(2) of the *Rules* permitting service of the Texas LLCs outside of Canada.

[140] Counsel for the Texas LLCs were present at the initial hearing on November 14, 2024 and, at that time, received notice of the Initial Order and the date of the comeback hearing. No issue has been raised on appeal about service of the Initial Order itself.

[141] At the first stage of the comeback hearing on November 21, 2024, the Texas LLCs contested the Alberta courts' jurisdiction and pointed out that the applicant investors had not obtained an order permitting service of the originating application *ex juris*. Despite that, the chambers judge found that the Texas LLCs had notice of the *CCAA* proceedings and that the Alberta courts had jurisdiction over them because "they [were] inextricably intertwined in the corporate and investment structure of the Windridge and Fossil Creek projects that were marketed to Canadian investors in Canada through Alberta and Ontario corporations, limited partnerships, and trusts": *ARIO Decision*, AR, 89/8–12.

[142] The *Rules* governing service of a commencement document outside Canada have dual functions. One is to ensure that the responding party has notice of the proceeding, and the other is to ensure there is an arguable basis for the Alberta courts to exercise jurisdiction over the responding party. The test for an order permitting service of a commencement document outside Canada under R 11.25(2) has a jurisdictional component because it requires the party issuing it to show a good, arguable case of a "real and substantial connection" between Alberta and the facts on which the claim is based: ***Acciona Infrastructure Canada Inc v Posco Daewoo Corporation***, 2019 ABCA 241 at para 14.

[143] On appeal, the Texas LLCs have not challenged the chambers judge's finding that the Alberta courts have jurisdiction over them in these proceedings. That may be because they accept that the proceedings have a real and substantial connection to Alberta or that they have attorned to the jurisdiction of the Albera courts through their actions to set aside the Initial Order. Their arguments against the Initial Order have not been limited to disputing the jurisdiction of the Alberta courts but have extended to contesting its legal merits.

[144] The Texas LLCs' actual ground of appeal regarding service *ex juris* is rather different. They argue that the *ARIO Decision* erred in finding that they had notice of the *CCAA* proceedings by the date of the comeback hearing. They say that was an error because the finding of notice made the issue of service *ex juris* of the originating application moot. We disagree.

[145] First, it is a fact that the Texas LLCs had notice of the *CCAA* proceedings (i.e., the Initial Order and the comeback hearing) before the date of the comeback hearing. It cannot have been an error for the chambers judge to find that fact, even though the initial originating application had not been served as required by the *Rules*: ***Sandhu v MEG Place LP Investment Corporation***, 2012 ABCA 266 at paras 18–19.

[146] Second, the finding that the Texas LLCs had notice of the Initial Order by the date of the comeback hearing did not make the issue of service *ex juris* moot. As noted, the *Rules* governing service *ex juris* have dual functions — to provide notice and to establish an arguable basis for jurisdiction. The chambers judge's finding about notice did not take jurisdiction, or the application of the test for service outside Canada, off the table. He made a separate finding that the Alberta courts had jurisdiction over the Texas LLCs in these proceedings. It remained open to the Texas LLCs to contest that finding on appeal, whether based on the general law of jurisdiction or the absence of an order permitting service of the originating application *ex juris*. Their conduct in contesting the Initial Order may have made the jurisdiction issue a losing one, but the finding that they had notice of the *CCAA* proceedings did not make it moot.

3. Were the Canadian WFC Entities individually insolvent? If not, did the court have authority to subject them to the Initial Order?

[147] The Canadian WFC Entities argue that the Initial Order should not have applied to them because none of them was insolvent when the order was made. Their argument closely mirrors the Texas LLCs' argument addressed earlier at paragraphs 121–130.

[148] Again, the starting point is s 2(1) of the *CCAA*, which defines a "debtor company" as a company that is insolvent, among other requirements. Neither decision under appeal found that any of the Canadian WFC Entities were individually insolvent on the date of the Initial Order. On appeal, the Monitor and the investors point to evidence in the record suggesting each was insolvent; however, that evidence is equivocal,[15] and it is not this Court's role to make fresh findings of fact.

[149] Accordingly, we proceed on the footing that the Canadian WFC Entities were not individually insolvent. The question is whether, nonetheless, the court below had the authority to subject them to the Initial Order.

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[15] Some of it is not specific to the Canadian WFC Entities, and some of it assumes, without any supporting authority, that an inability to perform a non-financial obligation constitutes insolvency.

[150] The answer depends on the effect s 3(1) of the *CCAA*. As noted, it provides that the *CCAA* "applies in respect of a debtor company or affiliated debtor companies" against which claims exceed $5 million. The Canadian WFC Entities argue that the *CCAA* only applies "to" debtor companies as defined in s 2(1) and that it follows that courts lack authority under ss 11, 11.02, or any other provision, to make orders binding a solvent entity.

[151] This argument fails for much the same reasons as the similar argument made by the Texas LLCs. It conflates two distinct questions: first, when the *CCAA* applies; and second, once it applies, the scope of the court's authority under it.

[152] On an application for an initial order, the court must determine whether the *CCAA* applies at all. That depends on whether the threshold in s 3(1) is met — whether there is a debtor company, among other things. Because a "debtor company" must be insolvent, determining whether the threshold is met requires the court to make an insolvency assessment.

[153] Once the s 3(1) threshold is met, the *CCAA* applies. The court then considers whether it is appropriate to grant an initial order and, if so, which entities should be bound by it. For the reasons given at paragraphs 124–130 above, s 3(1) operates as a trigger to the application of the *Act,* not as a limit on the courts' authority under s 11 and other sections. As such, the authority under s 11 extends to making orders that bind non-debtor companies, including solvent entities. While that authority must be exercised in a way that advances the objectives of the *CCAA*, the Canadian WFC Entities raised no issue with how the courts below exercised it in this case. Accordingly, we refrain from commenting on when it is appropriate to make orders against solvent entities.

[154] That leaves the other issue: the approach to assessing insolvency for the s 3(1) threshold. The *ARIO Decision* considered the assets and liabilities of all entities named in the Initial Order together and found that, collectively, they were insolvent. It was appropriate to assess insolvency that way because their businesses were "inextricably intertwined" with respect to the real estate projects: *ARIO Decision*, AR, 90/21–23.

[155] The question is whether, for the purpose of meeting the s 3(1) threshold, insolvency must be assessed by considering a company's assets and liabilities in isolation, or whether a company *may* be treated as insolvent where it forms part of a group that is collectively insolvent.

[156] There is considerable support in the case law for a collective approach to assessing insolvency in appropriate circumstances. Several cases have considered the assets and liabilities of multiple entities together to ground a finding that a debtor company was insolvent, albeit without extensive analysis. In most cases, the entities considered were corporations: ***Miniso*** at para 44; ***Bondfield Construction Company, Re***, 2019 ONSC 2310 paras 1, 13; ***Phoena Holdings Inc***, 2023 ONSC 2118 at paras 1, 9, 12; ***Re iMarketing Solutions Group***, 2013 ONSC 2223 at paras 1, 3, 11, 15. In some cases, the assets and liabilities of non-corporate entities were included in the insolvency assessment: see ***Dondeb Inc (Re)***, 2012 ONSC 6087; ***First Leaside Wealth Management Inc (Re)***, 2012 ONSC 1299.

[157] The case law has not settled on a single principle governing when it is appropriate to assess insolvency collectively. Courts have taken a collective approach where entities are affiliated within the definition of s 3(2), where companies are "part of an intertwined whole", or where they are parts of an enterprise in which the financial health of one company depends on the others: ***First Leaside*** at para 30; ***Dondeb*** at para 16; ***Re Earth Boring Co Ltd***, 2025 ONSC 2422 at para 26. In this case, the *ARIO Decision* adopted the "intertwined whole" rationale.

[158] In summary, the *ARIO Decision* correctly held that the insolvency of a company for s 3(1) purposes may, in appropriate circumstances, be assessed on a collective basis. The justification given in the *ARIO Decision* for taking that approach — that the entities named in the Initial Order were intertwined in the investment structures for the development projects — fell squarely within the range of approaches recognized in the case law. Appellate intervention is not warranted.

VII. CONCLUSION

[159] Our conclusions are summarized below:

- The Canadian investors who applied for the Initial Order were equity investors, not creditors of the Debtor Companies and Affiliate Entities. They were "interested persons" who could apply for an initial order because there was a reasonable possibility that they would benefit financially from the outcome of the *CCAA* proceedings. Given the priority scheme in s 6(8) of the *CCAA*, it will often be difficult for equity investors to establish that they are "interested persons" able to commence *CCAA* proceedings.
- The *CCAA* proceedings were commenced for proper purposes underlying the legislative scheme. The applicant Canadian investors did not seek the Initial Order for the sole purpose of investigating the debtor companies' affairs.
- The court below made no reviewable error in concluding that, as of the date of the comeback hearing, the proceedings were not doomed to fail and had a reasonable possibility of success. Put another way, there was a sufficient "germ of a plan" to warrant the Initial Order. However, the requirement of a reasonable possibility of success continues to apply after the grant of an initial order and the parties may revisit it if additional evidence about the prospects of success becomes available.
- The court below made no reviewable error in concluding that the *CCAA* proceedings are fair to the majority of investors and that the transaction documents establishing investors' rights did not preclude recourse to *CCAA* proceedings.
- The short-notice application for the Initial Order with respect to the Windridge and Fossil Creek projects was not justified. However, the appellants received full notice of the comeback hearing and were able to participate fully in it. In the circumstances, it would be disproportionate to terminate an otherwise meritorious *CCAA* proceeding because it was started on inadequate notice.

- At the comeback hearing, the applicant Canadian investors had the burden of establishing that the Initial Order was appropriate. Material information was unavailable at the first stage of the comeback hearing because some appellant entities failed to satisfy their duties to provide information to investors. It was not an error to continue the stay of proceedings for a short period while the Monitor acquired the missing information.
- The applicant Canadian investors did not obtain an order allowing them to serve the originating application on the Texas LLCs in Texas. Despite that, it was not a reviewable error to continue the *CCAA* proceedings against the Texas LLCs after the comeback hearing. The Texas LLCs did not appeal the finding that the Alberta courts have jurisdiction over them. They received notice of the Initial Order and the comeback hearing, which was a *de novo* application, on November 14, 2024. They raised no issue on appeal about the adequacy of the service of the Initial Order.
- The Texas LLCs do not meet the definition of "debtor company" under the *CCAA* because they are foreign companies without assets or business in Canada. Nevertheless, the court had statutory authority to subject them to the Initial Order. For the *CCAA* to apply, s 3(1) requires there to be a "debtor company" but it does not limit the court's statutory authority to orders against debtor companies. These appeals did not raise the issue of which factors or principles should structure the exercise of authority to make orders against foreign incorporated companies and this decision does not address it.
- It has not been established that the Canadian WFC Entities were individually insolvent on the date of the comeback hearing. Nevertheless, the court had statutory authority under s 11 to include the Canadian WFC Entities in the Initial Order. Provided that the threshold conditions in s 3(1) are met, and it is appropriate in the circumstances, the court has statutory authority to make orders in *CCAA* proceedings against entities that are solvent.

VIII. DISPOSITION

[160] The appeals are dismissed.

Appeals heard on September 8, 2025

Memorandum filed at Edmonton, Alberta
this 11th day of May, 2026

REGISTRAR
FILED
11 May 2026
NK
Court of Appeal of Alberta

de Wit J.A.

Shaner J.A.

Appearances:

D. Jukes
for the Appellants Angus A2A GP Inc., Angus Manor Park A2A GP Inc., Angus Manor Park A2A Capital Corp., Angus Manor Park A2A Developments Inc., Hills of Windridge A2A GP Inc., Fossil Creek A2A GP Inc., Fossil Creek A2A, A2A Developments Inc., Serene Country Homes (Canada) Inc., A2A Capital Services Canada Inc., Fossil Creek A2A Limited Partnership, Hills of Windridge A2A LP, Fossil Creek A2A Trust and Hills of Windridge A2A Trust

K.J. Meyer, KC
L.R. Rollingson (no appearance)
C.K. Brown
for the Appellants Fossil Creek A2A Developments, LLC and Windridge A2A Developments, LLC

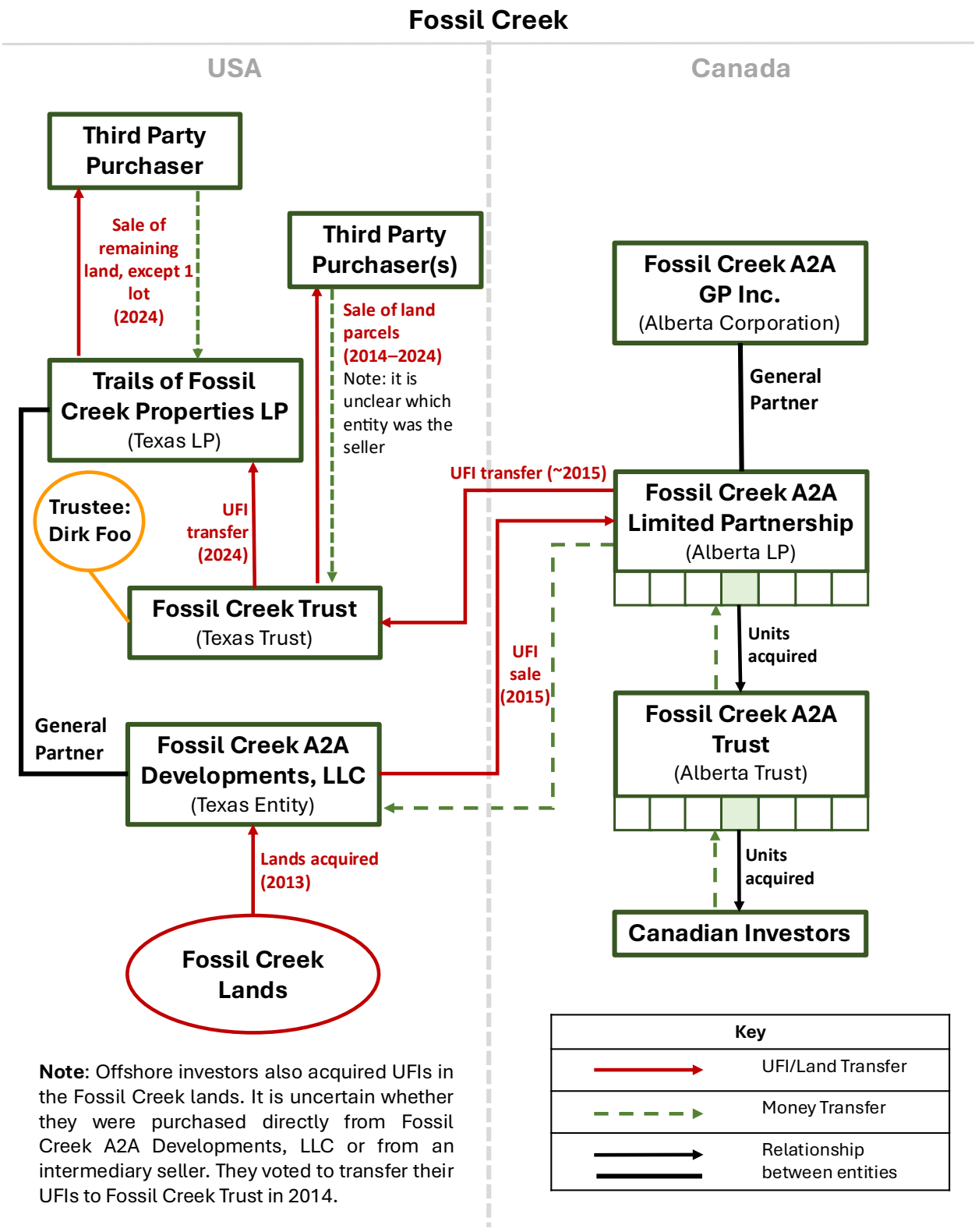
J.L. Oliver
D. Marechal (no appearance)
D. Jorgenson
for the Respondent Alvarez & Marsal Canada Inc.

R. Gurofsky
K.M.G. Wong
for the Respondents Michael Edwards, Paul Lauzon, Isabelle Brousseau, Pat Wedlund, Brian Richards and Canadian Investors

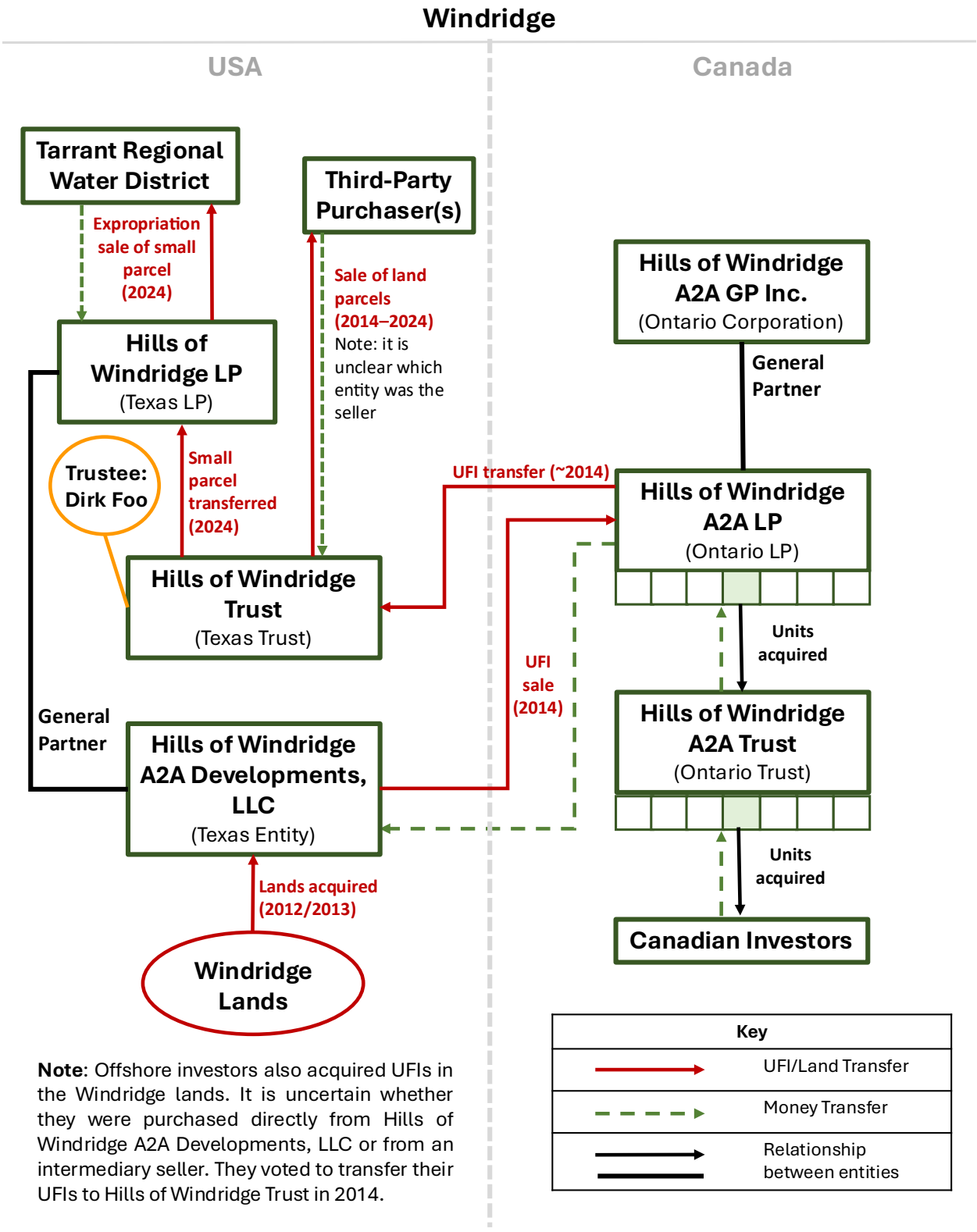
H.A. Gorman, KC (no appearance)
A. Stephenson
D.L.W. Stethem (no appearance)
for the Respondent Offshore Investors

K. Kashuba (no appearance)
for Pillar Capital Corp, The Interim Lender

Appendix A – Corporate structures for Canadian investment



Note: Offshore investors also acquired UFIs in the Fossil Creek lands. It is uncertain whether they were purchased directly from Fossil Creek A2A Developments, LLC or from an intermediary seller. They voted to transfer their UFIs to Fossil Creek Trust in 2014.



Note: Offshore investors also acquired UFIs in the Windridge lands. It is uncertain whether they were purchased directly from Hills of Windridge A2A Developments, LLC or from an intermediary seller. They voted to transfer their UFIs to Hills of Windridge Trust in 2014.

APPENDIX "D"

LEGAL TITLE OWNERSHIP:
UFI UIN: AMP-0007,AMP-0008

ANGUS MANOR PARK

DEED OF COVENANT

This Deed of Covenant made as of the APRIL 25, 2013 ,between :

1. **ANGUS MANOR PARK A2A DEVELOPMENTS INC.**, a corporation incorporated in the Province of Ontario, Canada with its registered office at 250 Ferrand Drive Suite 888, Toronto Ontario M3C 3G8, Canada (the "**Vendor**") who holds registered title to the Property who has divided ownership of the Property into 2300 undivided fractional interests in the Property more particularly described in Schedule 1 below for itself and for its successors-in-title, transferees and assigns; and

undivided fractional interest as tenants-in-common in the property more particularly described in Schedule 1 hereto (the "**Property**").

WHEREAS as a condition of sale the Vendor requires the Purchaser to provide certain covenants to and for the benefit of the Vendor and for all others, who may become Co-owners of the Property as tenants-in-common which covenants shall be binding on the Purchaser's heirs, executors, administrators, successors-in-title, transferees and assigns and the Vendor and the Vendor's successors-in-title, transferees and assigns and which shall run with and burden the Purchaser's and every other Undivided Fractional Interest in the Property ("**UFI**").

AND WHEREAS it is the intention of the Vendor to continue to sell its interest in the Property and at its absolute and unfettered discretion, to exercise its right but not the obligation to retain up to 5% legal and beneficial interest in the Property and thus remain a Co-owner with all the rights accruing thereto.

AND WHEREAS it is the intention of the parties that every Co-owner of the Property, from time to time shall be bound by this Deed of Covenant.

NOW THE PARTIES for themselves, their heirs, executors, administrators, successors-in-title, transferees and assigns covenant as follows:

Article 1.0 Definitions and Interpretation

1.01 For the purposes of this Deed, the following terms shall be deemed to have the following meanings unless the context otherwise requires:

"**Co-owners**" are owners whether having registered title or only a beneficial interest, from time to time, of the undivided tenant-in-common interest in the Property and for the purpose of clarity only, includes the Vendor so long as the Vendor remains a registered or beneficial owner of any Undivided Fractional Interest in the Property and "Co-owner" means any one of them;

"**Concept Planning Fund**" means the account or accounts to be opened by the Facilitator under Article 3.01(a);

"**CRA**" means the Canadian Revenue Agency;

"**Excise Tax Act**" means the Excise *Tax Act (Canada),* as amended from time to time, including the regulations made pursuant thereto;

"**Facilitator**" means any person or entity, incorporated or unincorporated, who is appointed from time to time under Article 2.02 by the Co-owners to be their facilitator pursuant to this Deed;
"**General Meeting**" means a meeting of Co-owners called in accordance with this Deed;

"**HST**" means Harmonized Sales Tax under the *Excise Tax Act, Canada*;

"**Income Tax Act**" means the *Income Tax Act, R.S.C. 1985, c.1 (5th Supp.),* as amended from time to time, including the regulations made pursuant thereto;

"**Land Transfer Tax Act**" means the *Land Transfer Tax Act, R.S.O. c.L.6,* as amended;

"**LTT**" means the land transfer tax payable pursuant to the *Land Transfer Tax Act;*

"**Net Income**" shall have the meaning attributed thereto in article 3.0(j);

"**Ordinary Resolution**" means a resolution approved by more than 50% of votes cast in person or by proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding, in the aggregate more than 50% of the UFIs in the Property;

"**Planning Activities**" means the reports, plans, studies, audits, assessments, investigations, legal proceedings, procedures, filings, submissions, applications and/or other actions taken or made in respect of or in furtherance of the rezoning or other land use matters related to the Property;

"**Property**" means the real property legally described on Schedule 1 annexed hereto;

"**Purchase Agreement**" means the form of agreement of purchase and sale entered into among the Vendor, as vendor, and each Co-owner (other than the Vendor), as purchaser, pursuant to which each Co-owner agreed to acquire its respective UFI;

"**Special Resolution**" means a resolution approved by 66.6% or more of votes cast in person or proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding in the aggregate 66.6% or more of the UFIs in the Property;

"**Undivided Fractional Interest**" or "**UFI**" or "**Interest**" means an undivided fractional interest, as tenants-in-common, in the Property and each UFI comprises a 1/2300 fractional interest in the Property;

1.02 In the interpretation of this Deed, unless the context otherwise requires:

(a) the division of this Deed into Articles, paragraphs, subparagraphs, schedules and appendices and the insertion of headings are provided for convenience only and do not form a part of this Deed nor are they intended to interpret, define or limit the scope, extent or intent of this Deed or any provision hereof;

(b) all references to decisions, directions, instructions or approvals of the Co-owners refer to such decisions made or directions, instructions or approvals given by Co-owners by Ordinary or Special resolutions;

(c) all references to currency herein are references to lawful money of Canada;

(d) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made-pursuant thereto;

(e) any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(f) words importing the masculine gender include the feminine or neuter genders and words in the singular include the plural and vice versa; and

(g) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case requires and the verb shall be construed as agreeing with required word and pronoun.

Article 2.0 Organization

2.01 The Co-owners shall manage the Property and the Facilitator shall carry out the instructions and directions of the Co-owners made in accordance with this Deed. In carrying out the instructions of Co-owners, the Facilitator, as may be appointed or changed by the Co-owners from time to time in the manner provided herein, shall have the power and authority to administer the Property as attorney and agent of the Co-owners.

2.02 The first Facilitator shall be the Vendor. The Co-owners may by Ordinary Resolution from time to time appoint another to be the Facilitator.

2.03 The Facilitator shall:

(a) ensure that every person who is to become or becomes a registered title holder or owner of a beneficial interest of an UFI shall be bound by the covenants contained herein;

(b) take steps to convene the first general meeting of the Co-owners as soon as feasible following the sale of the 2185th UFI in the Property by the Vendor;

(c) Implement the decisions and instructions of the Co-owners.

Article 3.0 Specific Powers of the Facilitator

3.01 Subject to specific other contrary directions and instructions of the Co-owners passed by Ordinary Resolution, the Co-owners hereby acknowledge and agree that the Facilitator is authorized at all times for and on behalf of the Co-owners:

(a) To maintain and operate one or more bank accounts opened with a Canadian chartered bank in the name of the Facilitator. The Facilitator shall deposit therein, the Vendor's contribution of 5.0% of the sales proceeds derived from the sale of UFIs and all rentals and other income that may be earned from the Property (the "**Concept Planning Fund**").

All expenses properly relating to the Property including, without limitation, cost of any Planning Activities, shall be paid by the Facilitator from the monies in such account to the extent of funds available therein.

(b) To execute, deliver and carry out all agreements which require implementation, delivery or execution by or on behalf of the Co-owners in connection with the Property, including without limitation, development agreements, site plan agreements, easements and rights of way.

(c) To enter into a lease and/or tenancy arrangement in respect of the Property and to collect all rentals and other income therefrom, provided that nothing herein shall constitute a guarantee by the Facilitator of the payment of any rent by tenants.

(d) To pay at the cost of the Co-owners all realty taxes, fees and other expenses relating to the orderly maintenance and management of the Property out of the Concept Planning Fund to the extent therein available, provided that nothing therein shall be construed as a guarantee by the Facilitator of the sufficiency of funds to cover all such expenses.

(e) To commence or to defend on behalf of the Co-owners at the cost and expense of the Co-owners, or itself or former Facilitator any and all actions and other proceedings pertaining to the Property or to the Co-owners.

(f) To determine the amount and type of insurance coverage, if any, to be maintained in order to protect the Property and the Co-owners from all usual perils of the type covered in respect of comparable properties.

(g) To employ and pay and discharge on behalf of the Co-owners and at the cost of the Co-owners, all servants, employees or contractors necessary to be employed in the management and operation of the Property and the Planning Activities.

(h) To contract on behalf of the Co-owners and at the cost of the Co-owners for water, gas, electricity and other services and commodities necessary for the operation and maintenance of the Property.

(i) To distribute proportionately amongst the Co-owners according to their respective share the net proceeds arising from a sale by the Co-owners of the Property, after payment of all expenses.

(j) To distribute the Net Income from the ownership, operation, use, and/or sale of the Property (if any) to each Co-owner, proportionate to his respective UFI. For the purposes of this Agreement, "**Net Income**" shall mean the gross receipts (which, for greater certainty, shall not include the Concept Planning Fund) derived in any way from dealing with the Property, received by or on behalf of the Co-owners from the ownership, operation, use, leasing, sale of, and/or development and/or any other dealing with of the Property, minus the aggregate of all proper expenses and charges incurred in connection therewith, calculated on an accrual basis, including, without limitation:

(i) realty taxes, property tax assessments, charges or levies made by any duly constituted governmental or statutory authority, due and owing and secured by a right or apparent right to claim a lien or charge upon the UFIs, or any of them, or the Property, and money due and owing from improvements to the Property secured by a lien or charge in favour of materialmen or workmen or trade contractors or other like persons or corporations upon the Interests, or any of them, or the Property;

(ii) all costs and expenses of any sale;

(iii) all development and re-zoning costs and expenses;

(iv) all costs and expenses of operating, maintaining, leasing, managing, using, and/or developing the Property, and the costs and expenses of repair;

(v) lighting, electricity and public utilities costs and expenses;

(vi) professional fees reasonably attributed to the Property, its operation, use, sale, re-zoning and/or development;

(vii) all other costs, expenses or disbursements which are properly attributable to the Property, except payments to the Co-owners on account of capital or distribution of Net Income; and

(viii) reserves in such amount as deemed appropriate by the Facilitator from time to time, including without limitation for the purposes of replacement of major equipment, major renovations and repairs, leasehold improvements, marketing costs and any other reserves normally required for the prudent operation, use, sale and/or development of a like property.

Article 4.0 Covenants of the Co-owners

4.01 The Co-owners covenant with each other as follows:

(a) That each Co-owner shall have a proportionate beneficial interest in all gross cash receipts derived from the Property to the extent of each Co-owner's UFI;

(b) To be responsible for his proportionate interest of the expenses and charges incurred in connection with the Property, in each case proportionate to his respective UFI and when called upon to contribute a fair and rateable proportion of the costs of maintaining the Property;

(c) To waive all individual rights of possession, use, occupation and rights of access to the Property and any part thereof and to exercise such rights collectively only; in order to facilitate the future re-zoning and ultimate development of the Property for the benefit of all Co-owners collectively;

(d) To comply with the *Planning Act (Ontario),* as amended from time to time; and

(e) To require every person to whom he may hereafter transfer his UFI to covenant to observe this Deed of Covenant.

Article 5.0 Loans from Facilitator

5.01 The Facilitator may, in its discretion, but shall not be under any obligation, lend money to the Co-owners, upon such terms and conditions as are acceptable to the Facilitator and the Co-owners, for the purposes relating to the maintenance or re-zoning of the Property. The terms and conditions of any such loan shall be approved by the Co-owners by Special Resolution and the Facilitator shall be entitled to repay itself out of the sales proceeds arising from the sale of the Property. If a Facilitator has made such an advance or advances, it shall be a condition of any such loan that the Facilitator shall have priority of re-payment of principal and interest over any claim of Co-owners to the balance of the Concept Planning Fund, Net Income balances or sale proceeds arising from sale of the Property.

Article 6.0 Authority of the Facilitator

6.01 No person dealing with the Facilitator will be required to enquire into the authority of the Facilitator to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf or in the name of the Co-owners.

6.02 The Facilitator is authorized to withhold any amounts required to be withheld from any distribution or other payment to a Co-owner pursuant to the provisions of the *Income Tax Act* and to make payment of any such amount on behalf of such Co-owner to the CRA, as may be required by law.

Article 7.0 General Meetings

7.01 The first General Meeting of Co-owners shall be held as soon as feasible upon the sale by the Vendor of the 2185th UFI and thereafter general meetings of Co-owners shall be held as often as is necessary when decisions or instructions are required from Co-owners for management of the Property or when Co-owners representing 15% or more of the total UFIs requisition for a meeting.

7.02 The Facilitator may by written notice substantially in the form annexed hereto as Schedule 2 (the "**Notice Requisitioning an Ordinary Resolution**") call for a general meeting of the Co-owners and any Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may by written notice to the Facilitator requisition a general meeting using the form annexed hereto in Schedule 2. The forms in Schedule 2 are for the convenience of Co-owners and the Facilitator only. If the Facilitator fails to call a general meeting upon requisition by Co-owners to do so, then in such event, a Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may deliver to the other Co-owners written notice of general meeting, stating therein the time and venue for the meeting which shall be in Ontario, Canada.

7.03 The Facilitator shall provide all Co-owners 14 days written notice of the first General Meeting and such notice include in the agenda:

(i) a resolution for the confirmation of appointment of the Facilitator;

(ii) recommended decisions and instructions as may be appropriate for the leasing, rental and/or re-zoning of the Property and/or undertaking Planning Activities; and

(iii) recommendation for the appointment or confirmation of appointment of professional advisers and consultants for the management of the Property and to carry out Planning Activities.

7.04 Not less than 14 days written notice shall be given for all general meetings and each notice shall be accompanied by an agenda setting out the matters to be placed before the Co-owners and the resolutions for their consideration and if thought fit, approval. Each agenda shall be accompanied by supporting materials, if any, sufficiently detailed to inform Co-owners of the matters to be considered at the meeting. Any notice which does not comply with this Article shall be void.

7.05 The venue of all general meetings shall be convened at an appropriate venue to be determined by the Facilitator save and except for a meeting called by one or more Co-owners under Article 7.02 upon the failure of the Facilitator to comply with a requisition for a meeting. The Facilitator shall have the discretion of attending all general meetings via electronic means instead of in person. Electronic means shall include but shall not be limited to Skype, video conference, telephone conference, etc.

7.06 Upon receipt of a Notice of a General Meeting, any two Co-owners may, with one proposing and the other seconding, put forth additional or alternative resolutions for the consideration and if thought fit, approval of other Co-owners together with supporting materials. Any such proposal shall reach the Facilitator not less than 7 days before the date of meeting and the Facilitator shall forthwith put such resolutions to the Co-owners for consideration.

7.07 Notices of meeting, agenda and other materials and minutes of meetings of Co-owners shall be sent by the Facilitator to Co-owners by electronic transmission, or by delivering a copy to the Co-owners by mail or by courier at his or her last known correspondence address as shown in the register of Co-owners maintained by the Facilitator.

7.08 Co-owners shall have one vote for each UFI and may attend a meeting in person, by corporate representative if a corporation or by proxy. Co-owners may appoint the Facilitator as proxy and direct the Facilitator how to vote and the Facilitator shall act according to such directions.

7.09 The Facilitator shall chair, and if the Facilitator is a corporation, a director of the Facilitator shall chair the meeting unless the Co-owners by Ordinary Resolution appoint one of their numbers to chair the meeting.

7.10 All resolutions except where a Special Resolution is expressly required hereunder shall be passed by Ordinary Resolution. Matters not referred to in the agenda of a general meeting shall not be voted on at that meeting. Any resolution passed by Ordinary Resolution, except where a Special Resolution is expressly required hereunder, shall be binding on all Co-owners, their respective heirs, executors, administrators, successors-in-title, assigns and transferees, whether or not any such Co-owner was present in person or by proxy or voted against any such resolution.

7.11 The Facilitator shall, and failing the Facilitator, the Co-owners shall appoint a Secretary to keep complete and accurate minutes of all meetings of Co-owners and the minutes of meetings shall be signed by the Chairman of the meeting and be prima facie evidence of the facts stated therein.

7.12 The minutes of each meeting shall be sent to each Co-owner within 30 days after the meeting. Any failure to send the minutes of a meeting shall not affect the validity of any decisions made at the meeting.

Article 8.0 Matters Exercisable Only By Ordinary Resolution

8.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by way of Ordinary Resolution:

(a) approving a proposal or plan to re-zone, develop and/or build structures on the Property;

(b) subject to Article 13 consenting to the amendment of this Deed, provided that, no amendment to this Deed shall impose or increase any financial or other obligations upon any of the Facilitator, or in any way adversely affect the Facilitator, without the prior written approval of the Facilitator and which approval may be denied without the Facilitator having to give any reasons therefor;

(c) appointment and confirmation of a firm of chartered accountants qualifed to practice in Canada to prepare the financial statements for the Property and any activities carried on with respect to the Property; and

(d) any matter relating to management of and dealings in the Property.

Article 9.0 Matters Exercisable Only By Special Resolution

9.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by the way of Special Resolution:

(a) Approving the sale or exchange of all or any part of the Property not being the sale of a UFI by the Vendor or other Co-owners; provided that, no such sale by such Co-owners shall include an interest in the Property of any other Co-owner. For greater certainty nothing in this Deed shall prohibit the Vendor or other Co-owner from selling an UFI of which he is the registered owner and under conditions that the assignee or transferee shall be bound by this Deed;

(b) Approving or ratifying the making of a loan or advance by the Facilitator under Article 5.0;

(c) Amendments under Article 13 below.

Article 10.0 Change of Facilitator

10.01 The Co-owners may by Ordinary Resolution terminate and remove the Facilitator (in its capacity as Facilitator and not as a Co-owner) and appoint a new Facilitator in its place and stead. Such new Facilitator shall be bound by all of the terms of this Deed and shall by a deed of adherance confirm that it is bound under this Deed as if it was an original signatory thereto. Upon termination, the Facilitator terminated shall forthwith upon request of the person designated in the resolution as the replacement Facilitator (the "**Designated Person**") do the following:

(a) deliver all agreements, documents, instruments, books and records and writings relating to the Property in its possession to the Designated Person, including, without limitation, the register of Co-owners;

(b) execute and deliver such consents, acknowledgements and assignments pertaining to the Property and any Planning Activities as the Designated Person may require;

(c) deliver the bank account or accounts containing the Concept Planning Fund to the control of the Designated Person;

(d) execute and deliver a release in form and content satisfactory to the Designated Person, acting reasonably, releasing the Co-owners from any liability, provided that:

(i) the release by the Facilitator shall not release the Co-owners from their obligation to continue to indemnify the Facilitator pursuant to Article 17 hereof; and (ii) the Facilitator receives a release in form and content satisfactory to the Facilitator, acting reasonably, executed by the Designated Person, authorised to so do on the Co-owners behalf by resolution in general meeting releasing the Facilitator from any liability with respect to the Property and the Co-owners which resolution shall expressly acknowledge and agree that the Designated Person shall have the power and authority to deliver such release, without any further approval or authorization required from the Co-owners;

(e) do all things necessary and execute all necessary documents and otherwise co-operate and assist to carrying out and giving effect to each of the actions set out above.

Article 11.0 Transfers of Interest

11.01 No Co-owner shall sell, transfer, mortgage or otherwise encumber or dispose of his UFI in the Property, except in accordance with the provisions of this Agreement. The Facilitator shall record the names and address of the Co-owners, the UFIs held by each Co-owner and each UFI's private unique identification number and particulars of transfers of Interests.

11.02 UFIs may be assigned and transferred by a Co-owner or his agent duly authorized in writing if the following conditions are satisfied:

(a) the transferor and transferee have delivered to the Facilitator in the case of a co-owner with registered title, a copy of an executed assignment and a copy of an executed acknowledgement and direction authorizing registration of the transfer/deed of title to the transferee or in the case of the transfer of a beneficial interest a copy of an executed transfer of beneficial interest;

(b) the transferee has agreed in writing in such form as may be acceptable to the Facilitator, to be bound by the terms of this Deed, to assume the obligations of the transferring Co-owner under this Deed in respect of the UFI being assigned and transferred to him and have signed all instruments ancillary to this Deed;

(c) the transferee delivers, or causes to be delivered to the Facilitator the form of Acknowledgement and Direction provided by the Facilitator, duly executed by the transferor and transferee authorizing the Ontario lawyers named therein to transfer title to the UFI being assigned and transferred, together with two picture identifications of each of the transferee and transferor duly notarized acceptable to such lawyer and in the case of the transferee of a beneficial interest, the transferee will

not be required to deliver or cause to be delivered the aforesaid form of Acknowledgement and Direction;

(d) the transferee pays such costs, expenses and disbursements, including legal fees as are reasonably incurred by the Facilitator by reason of the assignment and transfer and registration of the transferee as registered owner;

(e) the transferee pays all applicable HST pursuant to the *Excise Tax Act*, and all applicable LTT pursuant to the *Land Transfer Tax Act,* and makes any and all necessary filings and remittances within the time periods required therefor under the provisions of the *Excise Tax Act* and the *Land Transfer Tax Act* and the respective regulations thereunder;

(f) the transferring Co-owner shall either provide the transferee with evidence reasonably satisfactory to the transferee that the transferring Co-owner is then a "**non-resident**" of Canada within the meaning of the *Income Tax Act (Canada)* or provide the transferee with a certificate pursuant to *subsection 116(2) of the Income Tax Act (Canada)* with a certificate limit in an amount not less than the purchase price for the Undivided Interest being assigned and transferred; provided that if such evidence or certificate is not forthcoming, the transferee shall be entitled to make the payment of tax required under section *116 of the Income Tax Act (Canada)* and to deduct such payment from the purchase price for the UFI being assigned and transferred;

11.03 When a transferee of an Interest is entitled to become a Co-owner pursuant to the provisions hereof, the Facilitator will:

(a) if the transferee is registered on title, cause to be registered with the relevant land registry a transfer of title to the UFI being transferred and provide a copy of the abstract of title showing such registration to the transferee;

(b) record the transferee as Co-owner.

Article 12.0 Books and Records

12.01 The Facilitator will keep or cause to be kept and maintained on behalf of the Co-owners at the Facilitator's principal place of business in Ontario:

(a) full and accurate books of account and records reflecting the receipts and expenditures relating to the Property; and

(b) a register of Co-owners.

12.02 The register of Co-owners shall record:

(a) The names of Co-owners being the registered title holders, from time to time, of the Property;

(b) The private unique identification number(s) of the UFI(s) held by a Co-owner;

(c) Country of residence of each Co-owner;

(d) Address, telephone number, facsimile number and email address of each Co-owner.

12.03 The documents kept by the Facilitator shall be available for inspection by Co-owners.

Article 13.0 Amendments

13.01 This Deed may be amended in writing on the initiative of the Facilitator and by Special Resolution of the Co-owners Provided That such amendment is solely for the purpose of:

(a) curing an ambiguity or to correct or supplement any provision contained herein which, in the reasonable opinion of the Facilitator, may be defective or inconsistent with any other provision contained herein, and with respect to which the cure, correction or supplemental provision does not and will not substantially adversely affect the interests of the Co-owners or any one of them; or

(b) making such other provisions in regard to matters or questions arising under this Deed which, in the reasonable opinion of the Facilitator, do not and will not substantially adversely affect the interest of the Co-owners or any one of them.

Article 14.0 Development of the Property

14.01 Any credible proposal to develop the Property received by the Facilitator from a developer (which developer may include the Vendor) which the Facilitator is of the reasonable opinion to be on normal commercial terms shall be presented to the Co-owners. If the Co-owners shall approve of such development proposal then the Facilitator shall be irrevocably entitled to proceed with such proposal, which shall form the basis of a development plan which shall be drawn up with the assistance of the Facilitator, subject to all such amendments as may generally be required to be made thereto, in the discretion of the Facilitator.

Article 15.0 Sale of the Property

15.01 An offer (the "**Offer**") to purchase the Property received by the Facilitator, which the Facilitator deems credible and on normal commercial terms, shall be presented to the Co-owners for decision. If such offer to purchase is accepted by the Co-owners by Special Resolution, then such Resolution shall authorise and be deemed to have authorized the Facilitator to accept the Offer as agent of the Co-owners which acceptance shall be binding upon all of the Co-owners.

15.02 The Co-owners covenant that the Facilitator shall have the right to purchase, exercisable by notice in writing to the Co-owners, within 14 days after the Co-owners have passed a Resolution to accept the Offer, to purchase the Property on the same terms and conditions as the Offer. If the Facilitator fails to give such notice within 14 days then the Facilitator shall accept the Offer and complete the transaction in accordance therewith on behalf of the Co-owners.

Article 16.0 HST and LTT

16.01 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and /or remittances relating to HST from funds provided by the Co-owner arising out of the purchase by each Co-owner from the Vendor of his respective UFI in the Property, as well as HST arising out of the management and operation of the Property. In executing the Purchase Agreement, each Co-owner has authorized the Vendor, on its behalf, to make a file, an election or elections jointly with the Vendor under subsection 273(1) of the *Excise Tax Act.*

For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator to carry out any HST reporting or filing obligations that are required or available to the Co-owners in respect of their Interests. Such authority shall include the execution of any documents that have to be or which may be advisable to be executed under the *Excise Tax Act*.

16.02 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and/or remittances, from funds provided by the Co-owner, relating to LTT arising out of the purchase by each Co-owner from the Vendor of his respective Interest in the Property. For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator on behalf of the Co-owner and with the Co-owner's funds to make any and all remittances and filings within the time period required therefor under the provisions of the *Land Transfer Tax Act* relating to LTT pursuant to the *Land Transfer Tax Act* required to be made by the Co-owner arising from the acquisition and/or ownership of the Interest.

Article 17.0 Indemnification

17.01 Each of the Co-owners agrees, severally and not jointly or jointly and severally, to indemnify and hold harmless the Facilitator from and against any and all demands, claims, actions, causes of action, losses, costs, expenses, liabilities and damages (including reasonable legal fees and disbursements) incurred by the Facilitator or by any one or more attorneys appointed by it or them under the power to substitute pursuant to a Power of Attorney granted to the Facilitator or by reason of acts, omissions or alleged acts or omissions arising out of the activities of the Facilitator on behalf of the Co-owners or in furtherance of the interest of the Co-owners but only if the acts, omissions or the alleged acts or omissions in respect of which any actual or threatened action, proceeding or claim are based, were performed in good faith and

were not performed or omitted fraudulently or as a result of wilful misconduct or the gross negligence of the Facilitator.

Article 18.0 Becoming a Co-owner

18.01 Each of the Co-owners agrees that, by his purchase of an UFI from the Vendor (regardless of whether he executed a counterpart of this Deed) and completion of his acquisition pursuant to the Purchase Agreement, he shall be deemed to be a Co-owner, and the provisions of this Deed shall constitute an agreement among the Vendor, such Co-owner and all other Co-owners from time to time. The Co-owners acknowledge and agree that the Vendor shall have the right, but not the obligation, to retain an Interest in the Property, to whatever extent it wishes from time to time, and the Vendor will therefore be a Co-owner to the extent that it retains any such Interest.

Article 19.0 Competing Interests

19.01 Each of the Co-owners and the Facilitator is enabled, without the consent of any of the others of them, to carry on any business activity of the same nature and competing with that of the Co-owners, and is not liable to account to any of the other of them.

Article 20.0 Notices

20.01 Any notice, communication or payment required or permitted to be given to the Co-owners or anyone of them or the Facilitator shall be in writing and may be given by personal delivery or sent by courier service (delivery charges prepaid) or by mailing to same to be addressed as follows:

(a) To the Facilitator at its respective mailing address;

(b) To each Co-owner at his last address shown on the records maintained by the Facilitator or transmitted by fax or electronically as a PDF file to the fax number or email address provided by the Facilitator or a Co-owner.

Any notice, communication or payment delivered as aforesaid shall be in the English language but may be accompanied by an unofficial translation and shall be deemed to have been given to the addressee on the day of delivery or, if mailed as aforesaid, shall be deemed to have been given to the addressee on fifth (5th) business day following the date of deposit thereof in the mail service, provided that, for such purposes, no day during which there shall be a strike or other occurrence which shall interfere with normal mail services shall be considered a business day. Accidental or inadvertent omission or failure to give any notice, communication or payment required or permitted to be given to any Co-owner shall not affect the validity or legality of any proceeding or action undertaken in respect thereof.

Any notice or communications transmitted by fax or electronic mail before 5:00 p.m. (Toronto Time) on a Business Day (being any day of the week, other than a Saturday, Sunday or a day that is a statutory holiday in Canada), shall be deemed to have been given on such Business Day, and if transmitted by fax or electronic mail after 5:00 p.m. (Toronto Time) on a Business Day, shall be deemed to have been given on the Business Day after the date of transmission.

Article 21.0 Further Acts

21.01 The Co-owners covenant and agree to execute and deliver such further and other documents and to perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Deed and every part hereof.

Article 22.0 Binding Effect

22.01 Subject to the restrictions on assignment and transfer herein contained, this Deed shall ensure to the benefit of and be binding upon the Co-owners and their respective heirs, executors, administrators and other legal representatives, successors-in-title, assigns and transferees.

Article 23.0 Severability

23.01 Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

Article 24.0 Counterparts

24.01 This Agreement may be executed in any number of counterparts, by original or facsimile signature, with the same effect as if all parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one and the same agreement.

Article 25.0 Reference Date

25.01 This Agreement is dated for reference purposes as of the date of signature on the signature page.

Article 26.0 Time

26.01 Time shall be of the essence hereof.

Article 27.0 Governing Law

27.01 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, in the Country of Canada and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the Province of Ontario, in the Country of Canada.

Article 28.0 No Intention to Create a Partnership

28.01 The Co-owners acknowledge, agree and declare that the entering into of this Agreement does not, and is not intended to, create a partnership, for either legal, income tax, accounting or other purposes. The Co-owners further declare nothing herein is to be construed as a limitation of the powers or rights of any Co-owner to carry on its separate respective activities. Except for the Facilitator as contemplated in this Agreement, none of the Co-owners shall have the right to bind any of the other Co-owners, transact any business in any of the other Co-owners' names or on their behalf or incur any liability for or on behalf of any of the other Co-owners. The Co-owners agree that they shall each report their income or loss arising from the ownership of their Interests, for both accounting and income tax purposes, and to the applicable taxing authorities, as co-ventures independent of one another, and not as partners in a partnership.

Article 29.0 Termination

29.01 This Deed shall remain in full force and effect until the title to the Property is transferred to one registered owner (the "**Sole Owner**") and thereafter shall continue to be binding on those Co-owners who transferred their title to the Sole Owner until all monies (including the balance of the Concept Planning Fund, if any and sales proceeds) are distributed by the Facilitator proportionately to the Co-owners.

Article 30.0 Entire Agreement

30.01 This Deed, sets forth the entire understanding of the Parties relating to the subject matter thereof, and all prior or contemporaneous understandings, agreements, representations and warranties, whether written or oral, are superseded by this Deed, and all such prior or contemporaneous understandings, agreements, representations and warranties are hereby terminated.

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IN WITNESS WHEREOF this Agreement is executed as of the day and year first above written

Co-owner / Facilitator:

ANGUS MANOR PARK A2A DEVELOPMENTS INC.

Per: _____
Authorized Signing Officer

I have authority to bind the Corporation.

Date:

Witness:

SIGNATURE OF WITNESS

Name_____

Date:

Co-owner:

SIGNATURE OF CO-OWNER

[redacted]

APPENDIX "E"

JANUARY 9 TH, 2015

RESTRICTIVE COVENANT

DEED OF COVENANT

THIS DEED OF COVENANT (the "**Deed**") is effective as of the Effective Date (as defined on the signature page hereof) and is made and executed by:

> **FOSSIL CREEK A2A DEVELOPMENTS, LLC**, a Texas limited liability company with its principal place of business located at 548 Silicon Drive, Suite 100, South Lake, Texas 76092 USA
>
> (hereinafter called the "**Seller**")
>
> -and-
>
> **FOSSIL CREEK A2A LP**, an Alberta Limited Partnership with a place of business located at 744 Fourth Avenue S.W. Suite 900, Calgary, T2P 3T4 Canada
>
> (hereinafter called the "**Purchaser**")

RECITALS

WHEREAS the Seller owns certain real property located in Tarrant County, Texas, and legally described In Exhibit A attached hereto and made a part hereof and any and all structure, buildings, erections and improvements located in, on or under on the real property (the "**Property**");

AND WHEREAS the Seller has divided the ownership of the Property into 2,100 undivided, tenant-in-common, fractional interests (the "**Total Fractional Units**") and each undivided fractional ownership interest ("**UFI**") shall constitute a 1/2100 undivided ownership interest in the Property;

AND WHEREAS the Purchaser has entered into an amended and restated agreement of purchase and sale with the Seller dated as at January 9th, 2015 pursuant to which the Purchaser has agreed to purchase up to 1,000 UFIs (the "**Purchased Property**");

AND WHEREAS as a condition of sale the Seller requires the Purchaser to provide certain covenants to and for the benefit of the Seller and for all others, who may become owners of a UFI and which covenants shall be binding on the Purchaser's successors-in-title, trustees, transferees and assigns and the Seller and the Seller's successors-in-title, transferees and assigns and the other Co-Owners' successors-in-title, trustees, transferees and assigns and which shall run with and burden the Purchaser's UFI;

AND WHEREAS it is the intention of the Seller to continue to sell its interest in the Property and at its absolute and unfettered discretion, to exercise its right but not the obligation to retain as legal and beneficial owner up to 5% of the Total Fractional Interests and thus remain a Co-Owner with all the rights accruing thereto;

NOW THEREFORE THE PURCHASER for itself, its successors-in-title, trustees, transferees and assigns covenant as follows:

ARTICLE 1.
DEFINITIONS AND INTERPRETATION

1.1 For the purposes of this Covenant, the following terms shall be deemed to have the following meanings unless the context otherwise requires:

"**Co-Owners**" are the registered title owners, from time to time, of a UFI and for the purpose of clarity only, includes the Seller so long as the Seller remains a registered owner of a UFI and "**Co-Owner**" means any one of Co-Owners;

"**Development Fund**" means the funds advanced by the Co-Owners to the Facilitator concurrently with the purchase of a UFI and to be maintained in an account or accounts to be opened by the Facilitator under Article 3.1(a) hereof and to be used by the Facilitator for the purposes described in Article 3.1 hereof including, without limitation, for costs and expenses associated with the Planning, Development and Servicing Activities;

"**Facilitator**" means any person or entity, corporate or un-incorporated, who is appointed from time to time under Article 2 by the Co-Owners to be their facilitator pursuant to this Deed;

"**Facilitator's Fee**" means a fee charged by the Facilitator for service provided by the Facilitator.

"**FIRPTA**" shall refer to the Foreign Investment in Real Property Tax Act of 1980;

"**Form W-7**" has the meaning provided in Article 16.1;

"**General Meeting**" means a meeting of Co-Owners called in accordance with this Deed;

"**IRC**" shall mean the U.S. Internal Revenue Code and any regulations promulgated thereunder;

"**Net Income**" shall have the meaning attributed thereto in Article 3.1(i);

"**Ordinary Resolution**" means a resolution approved by more than 50% of votes cast in person or by proxy at a duly constituted meeting of Co-Owners or any written resolution signed in one or more counterparts by Co-Owners holding, in the aggregate more than 50% of the UFIs;

"**Person**" means either a natural person, a partnership of any type, a corporation, a joint venture, a syndicate, a chartered bank, a trust, a trust company, a government or an agency thereof, a trustee or an executor, an administrator or other legal representative.

"**Planning, Development and Servicing Activities**" means obtaining the reports, information, plans, studies, audits, assessments, inspections, investigations, and other items necessary for the proper design, construction, development and regulatory compliance of the Property; facilitating and participating in legal proceedings, procedures, filings, submissions, applications and other actions necessary for the acquisition, zoning, rezoning, construction, development, maintenance, regulatory compliance and other land use matters related to the Property; contracting, subcontracting, supervising, constructing and maintaining infrastructure and improvements to or on the Property; marketing and selling the Property; in whole or in part and any and all other actions necessary to be taken or made in respect to or in furtherance of the acquisition, planning, development, construction, maintenance and sale of the Property;

"**Property**" shall have the meaning attributed thereto in the first recital;

"**Proportionate Share**" shall have the meaning attributed thereto in Article 3.1(i);

"**Purchase Agreement**" means the agreement of purchase and sale dated as of March 20, 2014 entered into by the Seller, as vendor, and the Purchaser, as purchaser, pursuant to which the Purchaser has agreed to acquire and the Seller has agreed to sell to the Purchaser the Purchased Property;

"**Securities Act**" shall refer to *The United States Securities Act of 1933*, as amended; and

"**Special Resolution**" means a resolution approved by 66⅔% or more of votes cast in person or proxy at a duly constituted meeting of Co-Owners or any written resolution signed in one or more counterparts by Co-Owners holding in the aggregate 66.6% or more of the UFIs.

1.2 In the interpretation of this Deed, unless the context otherwise requires:

(a) The division of this Deed into Articles, paragraphs, subparagraphs, schedules and appendices and the insertion of headings are provided for convenience only and do not form a part of this Deed nor are they intended to interpret, define or limit the scope, extent or intent of this Deed or any provision hereof;

(b) All references to decisions, directions, instructions or approvals of the Co-Owners refer to such decisions made or directions, instructions or approvals given by Co-Owners by Ordinary or Special Resolution as the required by this Deed;

(c) All references to currency herein are references to lawful money of United States;

(d) Any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time;

(e) Any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(f) Words importing the masculine gender include the feminine or neuter genders and words in the singular include the plural and *vice versa*; and

(g) All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case requires and the verb shall be construed as agreeing with required word and pronoun.

ARTICLE 2.
ORGANIZATION

2.1 The Facilitator shall carry out the instructions and directions of the Co-Owners made in accordance with this Deed. In carrying out the instructions of Co-Owners, the Facilitator, as may be appointed or changed by the Co-Owners from time to time in the manner provided herein, shall have the power and authority to administer the Property as attorney and agent of the Co-Owners.

2.2 The first Facilitator shall be the Seller. The Co-Owners may by Ordinary Resolution from time to time appoint another Person to be the Facilitator.

2.3 The Facilitator shall:

(a) ensure that every Person who is a registered title holder of a UFI acknowledges this Deed including, without limitation, acknowledges that this Deed does not have the same covenants that are contained in the restrictive covenant entered into by other Co-Owners and that the other Co-Owners' UFIs are subject to the covenants contained in this Deed which are binding upon the Seller and the Purchaser;

(b) take steps to convene the first general meeting of the Co-Owners as soon as feasible following the sale of 95% of the Total Fractional Units; and

(c) implement the decisions and instructions of the Co-Owners.

ARTICLE 3.
SPECIFIC POWERS OF THE FACILITATOR AND FACILITATOR'S FEES

3.1 Subject to contrary directions and instructions of the Co-Owners passed by Ordinary or Special Resolution, the Co-Owners hereby acknowledge and agree that the Facilitator is authorized at all times for and on behalf of the Co-Owners:

(a) to maintain and operate one or more bank accounts opened with a United States bank in the name of the Facilitator. The Facilitator shall deposit therein, the sum of $2,850.00 for each UFI sold to a Co-Owner including the Purchaser and representing the Co-Owner's contribution to fund the Planning, Development and Servicing Activities (the "**Development Fund**"). Notwithstanding that the Development Fund is maintained in one or more bank accounts in the name of the Facilitator, the Purchaser shall be the owner of the funds contributed by the Purchaser to the Development Fund and the Facilitator agrees to hold such funds in escrow for the purposes described below in this Section 3.1 (a).

All expenses properly relating to the Property including, without limitation, the cost and expenses associated with the management and operation of the Property with any Planning, Development and Servicing Activities, shall be paid by the Facilitator from the Development Fund to the extent of funds available therein;

(b) to execute, deliver and carry out all agreements which require implementation, delivery or execution in connection with the Property, including without limitation, agreements relating to the Planning, Development and Servicing Activities;

(c) to enter into leases and/or tenancy arrangements of the Property, in whole or in part, and to collect all rentals and other income therefrom, provided that nothing herein shall constitute a guarantee by the Facilitator of the payment of any rent by tenants;

(d) to pay all realty taxes, fees and other expenses relating to the orderly maintenance and management of the Property out of the Development Fund to the extent of funds available therein, provided that nothing herein shall be construed as a guarantee by the Facilitator of the sufficiency of funds in the Development Fund to cover all such expenses;

(e) to commence or to defend on behalf of the Co-Owners, at the cost and expense of the Co-Owners, any and all actions and other proceedings pertaining to the Property;

(f) to obtain the amount and type of insurance coverage to protect the Property and the Co-Owners from all usual perils of the type covered by prudent owners of comparable properties and to pay for such insurance out of the Development Fund to the extent of funds available therein, and if funds are not therein available, at the cost of the Co-Owners in accordance with each Co-Owner's Proportionate Share;

(g) to employ, pay and discharge on behalf of the Co-Owners out of the Development Fund to the extent of funds available therein,, all employees, contractors, or subcontractors necessary to be employed in the management and operation of the Property and the Planning, Development and

Servicing Activities and if funds are not available in the Development Fund then at the cost of the Co-Owners in accordance with each Co-Owner's Proportionate Share;

(h) to contract on behalf of the Co-Owners for water, gas, electricity and other services and commodities necessary for the construction, operation, development and maintenance of the Property and to pay for the cost thereof out of the Development Fund to the extent of funds available therein and if funds are not therein available then at the cost of the Co-Owners in accordance with each Co-Owner's Proportionate Share;

(i) To distribute such amount of the Net Income to each Co-Owner in accordance with each Co-Owner's Proportionate Share as the Facilitator deems available for distribution and not required for any of the purposes set out in this section 3.1 or for construction or the development of the Property. Each Co-Owner's Proportionate Share thereof shall be determined by a fraction the numerator of which shall be the number of UFI(s) owned by such Co-Owner and the denominator shall be the Total Fractional Units ("**Proportionate Share**"). For the purposes of this Deed, **"Net Income"** shall mean the gross receipts derived from the ownership, operation, use, leasing, sale of and/or development and/or any other dealing with the Property, less the aggregate of all proper expenses and charges incurred in connection with the Property, calculated on an accrual basis, including, without limitation:

(i) realty taxes, property tax assessments, charges or levies made by any duly constituted governmental or statutory authority, due and owing and secured by a right or apparent right to claim a lien or charge upon the UFIs with respect to the Property, and any money due and owing from improvements to the Property secured by a lien or charge in favour of materialmen or workmen or trade contractors or other like Persons;

(ii) all costs and expenses of any sale;

(iii) all development and re-zoning costs and expenses;

(iv) all costs and expenses or operating, maintaining, leasing, managing, using, and/or developing the Property, and the costs and expenses of repair;

(v) lighting, electricity and public utilities costs and expenses;

(vi) professional fees reasonably attributed to the Property, its operation, use, sale re-zoning and/or development;

(vii) all other costs, expenses or disbursements which are properly attributable to the Property, except payments to the Co-Owners on account of capital or distribution of Net Income;

(viii) Facilitator's Fees; and

(ix) reserves in such amount as deemed reasonably appropriate by the Facilitator from time to time, including without limitation for the purposes of the continued Planning, Development and Servicing Activities of the Property consistent with the Development Plan approved by the Co-Owners.

3.2 In exchange for the services provided by the Facilitator, the Facilitator shall be paid Facilitator's Fees consisting of Fixed Management Fees and Net Income Fees (collectively the "**Facilitator's Fees**"). The Fixed Management Fees shall be five thousand dollars ($5,000) per house sold to any third-party owner who is not a Co-Owner (the "**Third-Party Owner**"). The "**Net Income Fees**" shall be an amount equal to twenty percent (20%) of the Net Income.

3.3 To the extent that pursuant to this Deed, the Co-Owners are liable for the payment of any costs relating to the Property each Co-Owner shall be severally liable for such costs in such Co-Owner's Proportionate Share.

ARTICLE 4.
COVENANTS OF THE CO-OWNERS

4.1 The Purchaser and the Seller covenant and agree with each other as follows:

(a) that each Co-Owner shall have a beneficial interest to the extent of its Proportionate Share in all gross cash receipts derived from the Property;

(b) to be responsible for his/her or its Proportionate Share of the expenses and charges incurred in connection with the Property, and when called upon to contribute its Proportionate Share thereof;

(c) to waive all individual rights of possession, use, occupation and rights of access to the Property and any part thereof and to exercise such rights collectively only; in order to facilitate the future re-zoning and ultimate development of the Property for the benefit of all Co-Owners collectively; and

(d) to require every Person to whom a Co-Owner may hereafter transfer a UFI to execute an agreement wherein the rights of the Co-Owner transferring the UFI are assigned to the transferee and the transferee agrees to assume the obligations of the transferring Co-Owner under this Deed in the case of the Seller or a transferee of the Seller and in the case of each other Co-Owner the obligations of the transferring Co-Owner under the applicable restrictive covenant executed by such Co-Owner.

ARTICLE 5.
LOANS FROM FACILITATOR

5.1 The Facilitator may, in its discretion and on such terms and conditions as the Facilitator deems appropriate, at any time and from time to time, but shall not be under any obligation, lend money to one or more of the Co-Owners, upon such terms and conditions as are acceptable to the Facilitator and the Co-Owner(s), for the purposes of assisting a Co-Owner's in satisfying and performing such Co-Owner's financial obligations under this Deed, including, without limitation, any financial obligations provided for in Section 3.1 hereof, or relating to the maintenance, construction, re-zoning or development of the Property. The Facilitator shall be entitled to repay the amount loaned out of such Co-Owner's Proportionate Share of the sales proceeds arising from the sale of the Property. If a Facilitator has made such a loan, it shall be a condition of any such loan to a Co-Owner that the Facilitator shall have priority of re-payment of principal and interest over any claim of such Co-Owners to the balance of the Development Fund, Net Income or sale proceeds arising from sale of the Property.

ARTICLE 6.
AUTHORITY OF THE FACILITATOR

6.1 No person dealing with the Facilitator will be required to enquire into the authority of the Facilitator to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf or in the name of the Co-Owners.

6.2 The Facilitator is authorized to withhold any amounts required to be withheld from any distribution or other payment to a Co-Owner pursuant to the provisions of the IRC, FIRPTA or other applicable law and to make payment of any such amount on behalf of such Co-Owners to the State of Texas, United State Internal Revenue Service or other governmental entity, as may be required by law.

ARTICLE 7.
GENERAL MEETINGS

7.1 The first General Meeting of Co-Owners shall be held as soon as feasible after the sale by the Seller of 95% of the Total Fractional Units and thereafter general meetings of Co-Owners shall be held as often as is necessary when decisions or instructions are required from Co-Owners with respect to the property or when Co-Owners representing 15% or more of the Total Fractional Units requisition for a meeting.

7.2 The Facilitator may by written notice substantially in the form attached hereto as Exhibit B (the "**Notice Requisitioning an Ordinary Resolution**") call for a general meeting of the Co-Owners and any Co-owner or Co-Owners together holding an aggregate interest of 15% of the Total Fractional Units or more may by written notice to the Facilitator requisition a general meeting using the form attached hereto in Exhibit B. The forms in Exhibit B are for the convenience of Co-Owners and the Facilitator only. If the Facilitator fails to call a general meeting upon requisition by Co-Owners to do so, then in such event, a Co-Owner or Co-Owners together holding an aggregate interest of 15% or more of the Total Fractional Units may deliver to the other Co-Owners written notice of general meeting, stating therein the time and venue for the meeting.

7.3 The Facilitator shall provide all Co-Owners 14 days written notice of the first General Meeting and such notice include in the agenda:

(i) A resolution for the confirmation of appointment of the Facilitator;

(ii) Recommended decisions and instructions as may be appropriate for the leasing, rental and/or re-zoning of the Property and/or undertaking Planning, Development and Servicing Activities;

(iii) Recommendation for the appointment or confirmation of appointment of professional advisers and consultants for the management of the Property and to carry out Planning, Development and Servicing Activities; and

(iv) Recommendation for the overall development plan of the Property, which will comprise the development phases for the Property, projection of Net Proceeds and its distribution plan (the "**Development Plan**").

7.4 Not less than 14 days written notice shall be given for all other general meetings and each notice for general meeting after the first General Meeting shall be accompanied by an agenda setting out the matters to be placed before the Co-Owners and the resolutions for consideration and if thought fit,

approval. Each agenda shall be accompanied by supporting materials, if any, sufficiently detailed to inform Co-Owners of the matters to be considered at the meeting.

7.5 The venue of all general meetings including the first General Meeting shall be in Flower Mound, Texas, United States at a location to be determined by the Facilitator save and except for a meeting called by one or more Co-Owners under Article 7.2 hereof upon the failure of the Facilitator to comply with a requisition for a meeting.

7.6 Upon receipt of a Notice of a General Meeting, any two Co-Owners may, with one proposing and the other seconding, put forth additional or alternative resolutions for the consideration and if thought fit, approval of other Co-Owners together with supporting materials. Any such proposal shall reach the Facilitator not less than 7 days before the date of meeting and the Facilitator shall forthwith put such resolutions to the Co-Owners for consideration.

7.7 Notices of meeting, agenda and other materials and minutes of meeting shall be sent by the Facilitator to Co-Owners by electronic transmission, or by delivering a copy to the Co-Owners by mail or by courier at his or her last known correspondence address as shown in the register of Co-Owners maintained by the Facilitator.

7.8 Co-Owners shall have one vote for each UFI owned by a Co-Owner and may attend a meeting in person, by corporate representative if a corporation or by proxy. Co-Owners may appoint the Facilitator as proxy and direct the Facilitator how to vote and the Facilitator shall act according to such directions.

7.9 The Facilitator shall chair, and if the Facilitator is a corporation, a director of the Facilitator shall chair the meeting unless the Co-Owners by Ordinary Resolution appoint one of their numbers to chair the meeting.

7.10 All resolutions except where a Special Resolution is expressly required hereunder shall be passed by Ordinary Resolution. Any resolution passed by Ordinary Resolution, except where a Special Resolution is expressly required hereunder, shall be binding on all Co-Owners, their respective heirs, executors, administrators, successors-in-title, assigns and transferees, whether or not any such Co-owner was present in person or by proxy or voted against any such resolution.

7.11 The Facilitator shall, and failing the Facilitator, the Co-Owners shall appoint a secretary to keep complete and accurate minutes of all meetings of Co-Owners and the minutes of meetings shall be signed by the Chairman of the meeting and be prima facie evidence of the facts stated herein.

7.12 The minutes of each meeting shall be sent to each Co-Owner within 30 days after the meeting. Any failure to send the minutes of a meeting shall not affect the validity of any decisions made at the meeting.

ARTICLE 8.
MATTERS EXERCISABLE ONLY BY ORDINARY RESOLUTION

8.1 Notwithstanding anything to the contrary contained in this Deed or in any restrictive covenant executed by a Co-Owner, the following shall always require a decision of the Co-Owners by way of Ordinary Resolution:

(a) Approving or ratifying a proposal or plan to re-zone, develop and/or build structures on the Property;

(b) Subject to Article 13 consenting to the amendment of this Deed, provided that, no amendment to this Deed shall impose or increase any financial or other obligations upon the Facilitator, or in

any way adversely affect the Facilitator, without the prior written approval of the Facilitator and which approval may be denied without the Facilitator having to give any reasons thereof;

(c) Appointment and confirmation of a firm of chartered accounts qualified to practice in United States to prepare the financial statements for the Property and any activities carried on with respect to the Property; and

(d) Any matter relating to ordinary day to day management of and dealings with the Property not expressly requiring a Special Resolution.

ARTICLE 9.
MATTERS EXERCISABLE ONLY BY SPECIAL RESOLUTION

9.1 Notwithstanding anything to the contrary contained in this Deed or in any restrictive covenant executed by a Co-Owner, the following shall always require a decision of the Co-Owners by the way of Special Resolution:

(a) Approving the sale or exchange of all or any part of the Property not being the sale of a UFI by the Seller or other Co-Owners; provided that, no such sale by such Co-Owners shall include an interest in the Property of any other Co-Owner. For greater certainty nothing in this Deed or in any restrictive covenant executed by any Co-Owner shall prohibit the Seller or the Purchaser from selling a UFI of which such Purchaser is the registered title owner under conditions that the assignee or transferee shall be bound by this Deed and nothing in this Deed shall prohibit the Seller or another Co-Owner from selling a UFI of which such other Co-Owner is the registered title owner under conditions that the assignee or transferee shall be bound by the applicable restrictive covenant signed by such selling Co-Owner; or

(b) Approving or ratifying the giving of a loan or advance by the Facilitator under Article 5 above; and

(c) Amendments under Article 13 below.

ARTICLE 10.
CHANGE OF FACILITATOR

10.1 The Co-Owners may by Ordinary Resolution terminate and remove the Facilitator (in its capacity as Facilitator and not as a Co-Owner) and appoint a new Facilitator in its place and stead. Such new Facilitator shall be bound by all of the terms of this Deed and shall by a deed of adherence confirm that it is bound under this Deed as if it was an original signatory thereto. Upon termination, the Facilitator terminated shall forthwith upon request of the person designated in the resolution as the replacement Facilitator (the "**Designated Person**") do the following:

(a) Deliver all agreements, documents, instruments, books and records and writings relating to the Property in its possession to the Designated Person, including, without limitation the register of Co-Owners;

(b) Execute and deliver such consents, acknowledgments, and assignments pertaining to the Property and any Planning, Development and Servicing Activities as the Designated Person may require;

(c) Deliver the bank account or accounts containing the Development Fund to the control of the

Designated Person;

(d) Execute and deliver a release in form and content satisfactory to the Designated Person, acting reasonably, releasing the Co-Owners from any liability, provided that:

(i) The release by the Facilitator shall not release the Co-Owners from their obligation to continue to indemnify the Facilitator pursuant to Article 17 hereof; and

(ii) The Facilitator receives a release in form and content satisfactory to the Facilitator, acting reasonably, executed by the Designated Person, authorized to so do on the Co-Owners' behalf by resolution in general meeting releasing the Facilitator from any liability with respect to the Property and the Co-Owners which resolution shall expressly acknowledge and agree that the Designated Person shall have the power and authority to deliver such release, without any further approval or authorization required from the Co-Owners; and

(e) Do all things necessary and execute all necessary documents and otherwise cooperate and assist to carrying out and giving effect to each of the actions set out above.

ARTICLE 11.
TRANSFERS OF INTEREST

11.1 The Purchaser shall not sell, transfer, mortgage or otherwise encumber or dispose of a UFI, except in accordance with the provisions of this Deed. The Facilitator shall record the names and address of the Co-Owners, the UFIs held by each Co-Owner and each UFI's private unique identification number and particulars of transfers of Interests.

11.2 UFIs may be sold, assigned and transferred by the Purchaser or his agent duly authorized in writing if the following conditions are satisfied:

(a) The transferor and transferee have delivered to the Facilitator an executed assignment and an executed registrable transfer form for the transfer of title to the transferee;

(b) The transferee has agreed in writing in such form as may be acceptable to the Facilitator, to be bound by the terms of this Deed, to assume the obligations of the transferring Co-Owner under this Deed in respect of the UFI being assigned and transferred and have signed all instruments ancillary to this Deed;

(c) The transferee delivers, or causes to be delivered to the Facilitator the form of Durable Special Power of Attorney provided by the Facilitator, duly executed by the transferor and transferee authorizing the lawyers named therein to transfer title to the UFI being assigned and transferred, together with two picture identifications of each of the transferee and transferor duly notarized and otherwise acceptable to such lawyer;

(d) The transferee pays such costs, expenses and disbursements, including legal fees as are reasonably incurred by the Facilitator by reason of the assignment and transfer and registration of the transferee as registered owner; and

(e) The transferee shall provide the Facilitator with evidence reasonably satisfactory to the Facilitator that the transferee is not a U.S. Person as defined under Rule 902 k of the Securities Act.

11.3 When a transferee is entitled to become a Co-Owner pursuant to the provisions hereof, the Facilitator will:

(a) Cause the Special Warranty Deed to be recorded with the appropriate county records and provide a copy of the recorded Special Warranty Deed to the UFI; and

(b) Record the transferee as Co-Owner.

ARTICLE 12.
BOOKS AND RECORDS

12.1 The Facilitator will keep or cause to be kept and maintained on behalf of the Co-Owners at the Facilitator's principal place of business in Flower Mound, Texas:

(a) Full and accurate books of account and records reflecting the receipts and expenditures relating to the Property and;

(b) A register of Co-Owners.

12.2 The register of Co-Owners shall record:

(a) The names of Co-Owners being the registered title holders, from time to time, of the Property;

(b) The private unique identification number(s) of the UFI (s) held by a Co-Owner;

(c) Country of residence of each Co-Owner;

(d) Address, telephone number, facsimile number and email address of each Co-Owner.

12.3 The documents kept by the Facilitator shall be available for inspection by the Co-Owners.

ARTICLE 13.
AMENDMENTS

13.1 This Deed may be amended in writing on the initiative of the Facilitator and by Special Resolution of the Co-Owners provided that such amendment is solely for the purpose of:

(a) Curing an ambiguity or to correct or supplement any provision contained herein which, in the reasonable opinion of the Facilitator, may be defective or inconsistent with any other provision contained herein, and with respect to which the cure, correction or supplemental provision does not and will not substantially adversely affect the interests of the Purchaser or the other Co-Owners or any one of them; or

(b) Making such other provisions in regard to matters or questions arising under this Deed which, in the reasonable opinion of the Facilitator, do not and will not substantially adversely affect the interest of the Purchaser.

ARTICLE 14.
DEVELOPMENT OF THE PROPERTY

14.1 The Facilitator may propose to the Co-Owners a Development Plan that allows the Facilitator to develop and sell the Property in phases. If the Co-Owners shall approve of such phased development proposal then the Facilitator shall be irrevocably entitled to proceed with such proposal, which shall form the basis of a Development Plan which shall be drawn up with the assistance of the Facilitator, subject to all such amendments as may generally be required to be made thereto in the discretion of the Facilitator.

ARTICLE 15.
SALE OF THE PROPERTY

15.1 An offer (the "**Offer**") to purchase the Property or any portion or phase of the Property received by the Facilitator, which the Facilitator deems credible and on normal commercial terms, shall be presented to the Co-Owners for decision. If such offer to purchase is accepted by the Co-Owners by Special Resolution, then such Resolution shall authorize and be deemed to have authorized the Facilitator to accept the Offer as agent of the Co-Owners which acceptance shall be binding upon all of the Co-Owners.

15.2 The Facilitator shall have the right to purchase, exercisable by notice in writing to the Co-Owners, within 14 days after the Co-Owners have passed a Special Resolution to accept the Offer, the Property on the same terms and conditions as the Offer. If the Facilitator fails to give such notice within 14 days then the Facilitator shall accept the Offer and complete the transaction in accordance therewith on behalf of the Co-Owners.

ARTICLE 16.
INCOME OR MARGIN TAX

16.1 The Purchaser hereby agrees to complete and execute if required the Application for IRS Individual Taxpayer Identification Number ("**Form W-7**"), and authorizes Facilitator to file form W-7 on the Purchaser's behalf.

16.2 In executing this Deed, the Purchaser authorizes Facilitator after consultation with the Purchaser and its financial advisor to apply for, execute and file (and to do all things incidental thereto) on behalf of the Purchaser any applicable tax forms required by the IRC and any regulations promulgated thereunder or required by the laws of the State of Texas that may be required in respect of any payment made to the Purchaser relating to the Purchaser's Purchased Property or on the disposition of the Property or the Purchased Property .

16.3 The Purchaser hereby agrees that the Seller may withhold any income tax required under the IRC (including but not limited to FIRPTA) or any income or margin tax required by the laws of the State of Texas in respect of any payment made to the Purchaser relating to the Purchaser's UFI, including, but not limited to, any payment made upon the Purchaser's disposition of the UFI. This Deed provides the Seller with a power of attorney and authorization after consultation with the Purchaser and its financial advisor to discuss matters relating to the Purchaser and the transactions of the Purchaser relating to the UFI with officials of the U.S. Internal Revenue Service and their Texas counterparts.

16.4 The Purchaser agrees that it shall be personally liable for the filing of income tax returns and the payment of any income taxes required by the IRC or for the filing of income or margin tax returns and the payment of any income or margin taxes required by the laws of the State of Texas, in excess of the Seller's withholding requirements under the IRC or the laws of the State of Texas, in connection with the purchase

of the UFI by the Purchaser, distributions with respect of the UFI or a disposition of the UFI, all in accordance with the IRC or the laws of the State of Texas.

16.5 The covenants of the Purchaser set out in this Article 16 shall survive and shall not merge upon the recording of the Transfer and the completion of the transaction(s) contemplated in this Deed.

ARTICLE 17.
RELEASE, INDEMNIFICATION AND LIMITATION OF LIABILITY

17.1 Each of the Co-Owners, severally and not jointly nor jointly and severally, expressly waives any claims against the Seller and the Facilitator and fully, finally completely and generally releases the Seller and the Facilitator, their predecessors, successors, subsidiaries, affiliates, officers, directors, managers, employees, agents, attorneys, attorneys in fact, accountants, and representatives ("**Released Parties**") from any and all claims, actions, demands, and/or causes of action arising under federal and state law, local regulation, or the common law, of whatever kind of character, damages or detriment, whether known or unknown, arising from, relating to, or in any way connected with the Facilitator's filing of tax returns or other documents with any taxing authority.

17.2 Each Co-Owner, severally and not jointly nor jointly and severally, hereby agrees to indemnify and pay, and hold forever harmless the Seller and the Facilitator, their servants, agents, directors, officers, employees, affiliated companies, parent companies, subsidiaries, predecessors, successors in interest, beneficiaries, insurers, attorneys accountants, assigns, and all Persons in privity with the Seller and Facilitator (the "**Indemnified Parties**") against any loss from any claim, demand, or action (including reasonable legal fees and disbursements) that may hereafter at any time be made or brought against the Seller and the Facilitator by on behalf of or through Co-Owner, its affiliates, subsidiaries or successors, that result from or arise out of the Facilitator's filing of tax returns or other documents with any taxing authority. This indemnity is intended to be broad and shall cover all causes of action including but not limited to claims for the Indemnified Parties sole negligence or intentional acts and it is intended to meet the express negligence standard.

ARTICLE 18.
BECOMING A CO-OWNER

18.1 The Purchaser agrees that, (regardless of whether he executed a counterpart of this Deed), that the Purchaser shall be deemed to be a Co-Owner under this Deed, and the provisions of this Deed shall constitute an agreement among the Seller and such Co-Owner. If this Deed contains terms that are not contained in any other agreement or restrictive covenant signed by or binding on the Seller and another Co-Owner then with respect to the Purchaser this Deed shall govern to the extent of any such term or to the extent of any inconsistency or conflict and the Purchaser shall not be bound by the terms of any other agreement between the Seller and another Co-Owner to the extent of any inconsistency or conflict. The Co-Owners acknowledge and agree that the Seller shall have the right, but not the obligation, to retain an undivided beneficial interest in the Property, to whatever extent it wishes from time to time, and the Seller will therefore be a Co-Owner to the extent that it retains any such UFI.

ARTICLE 19.
COMPETING INTERESTS

19.1 Each of the Co-Owners and the Facilitator is enabled, without the consent of any of the others of them, to carry on any business activity of the same nature and competing with that of the Co-Owners, and is not liable to account to each other.

ARTICLE 20.
NOTICES

20.1 Any notice, communication or payment required or permitted to be given to the Co-Owners or anyone of them or the Facilitator shall be in writing and may be given by personal delivery or sent by courier service (delivery charges prepaid) or by mailing to same to be addressed as follows:

(a) To the Facilitator at its respective mailing address;

(b) To each Co-Owner at his last address shown on the records maintained by the Facilitator or transmitted by fax or electronically as a PDF file to the fax number or email address provided by the Facilitator or a Co-Owner.

Any notice, communication or payment delivered as aforesaid shall be in the English language but may be accompanied by an unofficial translation and shall be deemed to have been given to the address on the day of delivery or, if mailed as aforesaid, shall be deemed to have been given to the address on seventh (7^{th}) business day following the date of deposit thereof in the mail service, provided that, for such purposes, no day during which there shall be a strike or other occurrence which shall interfere with normal mail services shall be considered a business day. Accidental or inadvertent omission or failure to give any notice, communication or payment required or permitted to be given to any Co-Owner shall not affect the validity or legality of any proceeding or action undertaken in respect thereof.

Any notice or communications transmitted by fax or electronic mail before 5:00 p.m. (Texas Time) on a business day (being any day of the week, other than a Saturday, Sunday or a day that is statutory holiday in United States), shall be deemed to have been given on such business day, and if transmitted by fax or electronic mail after 5:00 p.m. (Texas Time) on a business day, shall be deemed to have been given on the business day after the date of transmission. If such business day is a statutory holiday in Alberta, Canada or in Ontario, Canada then the transmission by fax or electronic mail shall only be deemed to have been given on the next business day that is not a statutory holiday in Alberta, Canada or in Ontario, Canada.

ARTICLE 21.
FURTHER ACTS

21.1 The Co-Owners covenant and agree to execute and deliver such further and other documents and to perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Deed and every part hereof.

ARTICLE 22.
BINDING EFFECT

22.1 Subject to the restrictions on assignment and transfer herein contained, this Deed shall enure to the benefit of and be binding upon the Co-Owners and their respective heirs, executors, administrators and other legal representatives, successors-in-title, assigns and transferees.

ARTICLE 23.
SEVERABILITY

23.1 Each provision of this Deed is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

ARTICLE 24.
COUNTERPARTS

24.1 This Deed may be executed in any number of counterparts, by original or facsimile signature, with the same effect as if all parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one and the same agreement.

ARTICLE 25.
REFERENCE DATE

25.1 This Deed is dated for reference purposes as of the date of signature on the signature page.

ARTICLE 26.
TIME

26.1 Time shall be of the essence hereof.

ARTICLE 27.
GOVERNING LAW

27.1 This Deed shall be governed by and construed in accordance with the laws of the State of Texas, in the Country of United States and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the State of Texas, in the Country of United States.

ARTICLE 28.
NO INTENTION TO CREATE A PARTNERSHIP

28.1 The Purchaser and Seller acknowledge, agree and declare that the entering into of this Deed does not, and is not intended to, create a partnership, for legal purposes. The Purchaser and Seller further declare nothing herein is to be construed as a limitation of the powers or rights of any Co-Owner to carry on its separate respective activities. Except for the Facilitator as contemplated in this Deed, none of the Co-Owners shall have the right to bind any of the other Co-Owners, transact any business in any of the other Co-Owners' names or on their behalf of incur any liability for or on behalf of any of the other Co-Owners.
.

ARTICLE 29.
TERMINATION

29.1 This Deed shall remain in full force and effect until the title to the Property and all subdivisions and parts thereof are transferred to a Third-Party Owner and thereafter shall continue to be binding on those Co-Owners who transferred their title to the Third-Party Owner until monies (including the balance of the Development Fund, if any and sales proceeds) are distributed by the Facilitator to the Co-Owners in their respective Proportionate Shares. All Third-Party Owners of the Property shall not be bound by this Deed.

ARTICLE 30.
ENTIRE AGREEMENT

30.1 This Deed, sets forth the entire understanding of the Parties relating to the subject matter thereof, and all prior or contemporaneous understandings, agreements, representations and warranties, whether written

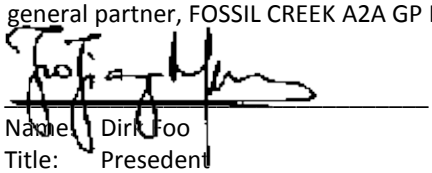
or oral, are superseded by this Deed, and all such prior or contemporaneous understandings, agreements, representations and warranties are hereby terminated.

ARTICLE 31.
RECORDING

31.1 The Purchaser acknowledges and agrees that the Seller may, in its sole discretion, not record this Deed but may refer to it in a recorded document against the Property.

EXECUTED at _____, on the _____ day of _____, 201__.

FOSSIL CREEK A2A LIMITED PARTNERSHIP, by its general partner, FOSSIL CREEK A2A GP Inc.

By 

Name: Dirk Foo
Title: Presedent

ACCEPTANCE

The Seller hereby accepts the terms of this Deed. Notwithstanding anything contained in this Deed to the contrary, the undersigned hereby acknowledges and confirms that this Deed shall be deemed to be dated as of the Effective Date set out below.

EXECUTED at _____, on the _____ day of _____, 201_ (the "**Effective Date**").

FOSSIL CREEK A2A DEVELOPMENTS, LLC

By _____
Name: Allen Lind
Title:

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 201__ by _____.

Given under my hand and seal of office this _____ day of _____, A.D., 201__.

_____

Notary Public

(SEAL)

Printed Name: _____

My Commission Expires:

_____

AFTER RECORDING RETURN TO:

Jeffrey C. Tasker
Tasker & Peterson, PLLC
4325 Windsor Centre Trail; Suite 600
Flower Mound, Texas 75028

EXHIBIT A

Legal Description of Property

Tract 1

BEING a tract of land out of the H. Robertson Survey, Abstract No. 1259, located in the City of Fort Worth, Tarrant County, Texas, and being a part of that 221.457 acre tract of land described in deed to MDC-The Trails Limited Partnership, recorded in Document No. D205076774, Tarrant County Deed Records, and being further described as follows:

BEGINNING at a 1/2 inch iron rod found in the north line of said 221.457 acre tract of line, said point being located at the intersection of the south line of W. Bonds Ranch Road (a 120 foot right-of-way) with the west line of Fossil Springs Drive (a variable width right-of-way);

THENCE along the west line of said Fossil Springs Drive as follows:
South 00 degrees 10 minutes 00 seconds East, 160.00 feet to a one-half inch iron rod found for corner;
South 08 degrees 07 minutes 54 seconds East, 101.03 feet to a one-half inch iron rod found for corner;
South 00 degrees 10 minutes 00 seconds East, 90.00 feet to a one-half inch iron rod found for corner;
South 44 degrees 57 minutes 17 seconds West, 14.11 feet to a one-half inch iron rod found for corner;
South 00 degrees 10 minutes 00 seconds East, 50.00 feet to a one-half inch iron rod found for corner;
South 45 degrees 02 minutes 43 seconds East, 14.17 feet to a one-half inch iron rod found for corner;
South 00 degrees 10 minutes 00 seconds East, 90.00 feet to a one-half inch iron rod found for the northeast corner of Lot 22, Block C, Trails of Fossil Creek, Phase 1, an addition to the City of Fort Worth as recorded in Cabinet A, Page 10235, Tarrant County
Plat Records;

THENCE along the north line of said Block C as follows:
North 89 degrees 55 minutes 27 seconds West, 660.51 feet to a one-half inch iron rod set in the west line of Pumice Drive (a 50 foot right-of-way)
South 00 degrees 10 minutes 00 seconds East, 2.29 feet to a one-half inch iron rod found for the northeast corner of Trails of Fossil Creek, Block B, Lot 33, an addition to the City of Fort Worth as recorded in Document No. D211218689, Tarrant County Plat Records, said point being located in the west line of said Pumice Drive;

THENCE South 89 degrees 50 minutes 00 seconds West, 100.00 feet to a one-half inch iron rod found for the northwest corner of said Trails of Fossil Creek, Block B, Lot 33, said point being located in the west line of said 221.457 acre tract of land, said point also
being located in the east line of Fossil Hill Estates, an addition to the City of Fort Worth as recorded in Cabinet A, Page 6756, Tarrant County Plat Records;

THENCE North 00 degrees 10 minutes 00 seconds West, 512.72 to a one-half inch iron rod found for the northwest corner of said 221.457 acre tract of land, said point being the northeast corner of said Fossil Hill Estates, said point also being located in the south line
of said W. Bonds Ranch Road;

THENCE South 89 degrees 55 minutes 27 seconds East, 746.51 feet along the north line of said 221.457 acre tract of land and along the south line of said W. Bonds Ranch Road to the POINT OF BEGINNING

and containing 384,572 square feet or 8.829 acres of land.

Tract 2

BEING a tract of land out of the H. Robertson Survey, Abstract No. 1259, located in the City of Fort Worth, Tarrant County, Texas, and being a part of that 221.457 acre tract of land described in deed to MDC-The Trails Limited Partnership, recorded in Document No. D205076774, Tarrant County Deed Records, and being further described as follows:

BEGINNING at a 1/2 inch iron rod found in the north line of said 221.457 acre tract of line, said point being the most northerly northeast corner of Trails of Fossil Creek, Phase 1, an addition to the city of Fort Worth as recorded in Cabinet A. Page 10235, Tarrant
County Plat Records, said point being located at the intersection of the south line of W. Bonds Ranch Road (a 120 foot right-of-way) with the east line of Fossil Springs Drive (a variable width right-of-way);

THENCE South 89 degrees 55 minutes 27 seconds East, with the north line of said 221.457 acre tract of land and with the south line of said W. Bonds Ranch Road, 1197.90 feet to a one-half inch iron rod found for the northeast corner of said 221.457 acre tract of land;

THENCE South 01 degrees 25 minutes 40 seconds West, 760.21 feet, with the east line of said 221.457 acre tract of land to a one-half inch iron rod found for the northeast corner Drill Site #1, as recorded in Document No. D205076774, Tarrant County Deed Records;

THENCE North 89 degrees 55 minutes 27 seconds West, 1200.83 feet to a one-half inch iron rod found in the east line of said Trails of Fossil Creek, Phase 1, said point being located in the east right-of-way line of said Fossil Springs Drive;

THENCE along the east line of said Fossil Springs Drive as follows:
North 08 degrees 40 minutes 57 seconds East, 5.16 feet to a one-half inch iron rod found for corner;
Northeasterly, 85.34 feet along a curve to the left having a central angle of 06 degrees 16 minutes 07 seconds, a radius of 780.00 feet, a tangent of 42.71 feet, whose chord bears North 05 degrees 32 minutes 53 seconds East, 85.29 feet to a one-half inch
iron rod found for corner;
North 46 degrees 03 minutes 40 seconds East, 14.38 feet to a one-half inch iron rod found for corner;
North 00 degrees 17 minutes 50 seconds East, 50.00 feet to a one-half inch iron rod found for corner;
North 45 degrees 02 minutes 43 seconds West, 14.17 feet to a one-half inch iron rod found for corner;
North 00 degrees 10 minutes 00 seconds West, 340.00 feet to a one-half inch iron rod found for corner;
North 07 degrees 48 minutes 27 seconds East, 100.92 feet to a point for corner in a brick column;
North 00 degrees 10 minutes 00 seconds West, 160.00 feet to the POINT OF BEGINNING and containing 909,894 square feet or 20.888 acres of land.

Tract 3

BEING a tract of land out of the H. Robertson Survey, Abstract No. 1259, located in the City of Fort Worth, Tarrant County, Texas, and being a part of that 221.457 acre tract of land described in deed to

MDC-The Trails Limited Partnership, recorded in Document No. D205076774, Tarrant County Deed Records, and being further described as follows:

BEGINNING at a 1/2 inch iron rod found for the northwest corner of Lot 21, Block FF of Trails of Fossil Creek, Phase 1, an addition to the city of Fort Worth as recorded in Cabinet A. Page 10235, Tarrant County Plat Records, said point being located in the east line of
Fossil Springs Drive (a variable width right-of-way);

THENCE along the east line of said Fossil Springs Drive as follows:
Northeasterly, 91.39 feet along a curve to the left having a central angle of 10 degrees 41 minutes 09 seconds, a radius of 490.00 feet, a tangent of 45.83 feet, whose chord bears North 12 degrees 47 minutes 09 seconds East, 91.25 feet to a one-half inch iron rod found for
corner;
North 50 degrees 06 minutes 13 seconds East, 14.57 feet to a one-half inch iron rod found for corner;
North 03 degrees 20 minutes 57 seconds East, 50.00 feet to a one-half inch iron rod found for corner;
North 43 degrees 20 minutes 03 seconds West, 14.55 feet to a one-half inch iron rod found for corner;
North 00 degrees 10 minutes 00 seconds West, 185.00 feet to a one-half inch iron rod found for corner;
North 44 degrees 57 minutes 17 seconds East, 14.11 feet to a one-half inch iron rod found for corner;
North 00 degrees 10 minutes 00 seconds West, 50.00 feet to a one-half inch iron rod found for corner;
North 45 degrees 02 minutes 43 seconds West, 14.17 feet to a one-half inch iron rod found for corner;
North 00 degrees 10 minutes 00 seconds West, 185.00 feet to a one-half inch iron rod found for corner;
North 44 degrees 57 minutes 17 seconds East, 14.11 feet to a one-half inch iron rod found for corner;
North 00 degrees 10 minutes 00 seconds West, 50.00 feet to a one-half inch iron rod found for corner;
North 45 degrees 02 minutes 43 seconds West, 14.17 feet to a one-half inch iron rod found for corner;
North 00 degrees 10 minutes 00 seconds West, 31.81 feet to a one-half inch iron rod found for corner;
Northeasterly, 111.20 feet along a curve to the right having a central angle of 08 degrees 50 minutes 57 seconds, a radius of 720.00 feet, a tangent of 55.71 feet, whose chord bears North 04 degrees 15 minutes 28 seconds East, 111.09 feet to a one-half inch iron rod
found for corner;
North 08 degrees 40 minutes 57 seconds East, 37.93 feet to a one-half inch iron rod found for corner;
North 49 degrees 22 minutes 45 seconds East, 15.16 feet to a one-half inch iron rod found for corner;
South 89 degrees 55 minutes 27 seconds East, 9.63 feet to a one-half inch iron rod found for corner;
North 00 degrees 04 minutes 33 seconds East, 50.00 feet to a one-half inch iron rod found for corner;
North 89 degrees 55 minutes 27 seconds West, 2.06 feet to a one-half inch iron rod found for corner;
North 40 degrees 37 minutes 15 seconds West, 13.04 feet to a one-half inch iron rod found for corner;
North 08 degrees 40 minutes 57 seconds East, 91.14 feet to a one-half inch iron rod found for corner;

THENCE South 89 degrees 55 minutes 27 seconds East, 804.71 feet to a one-half inch iron rod found for corner in the east line of said 221.457 acre tract of land, said point being the northwest corner of Drill Site #1, as recorded in Document No. D205076774, Tarrant County deed Records;

THENCE with the east line of said 221.457 acre tract of land as follows:
South 00 degrees 04 minutes 33 seconds West, 500.00 feet to a one-half inch iron rod found for the southwest corner of said Drill Site #1;
South 89 degrees 55 minutes 27 seconds East, 384.32 feet to a one-half inch iron rod found for the southeast corner of said Drill Site #1;
South 01 degrees 25 minutes 40 seconds West, 534.73 feet to a one-half inch iron rod found for the northeast corner of Lot 15, Block GG of said Trails of Fossil Creek, Phase 1;

THENCE North 88 degrees 34 minutes 20 seconds West, 120.00 feet to a one-half inch iron rod found for the northwest corner of said Lot 15, said point being located in the east line of Talus Drive (a 50 foot right-of-way);

THENCE North 01 degrees 25 minutes 40 seconds East, 31.76 feet with the east line of said Talus Drive to a one-half inch iron rod found for corner;

THENCE North 89 degrees 55 minutes 49 seconds West, 506.79 feet to a one-half inch iron rod found for corner in the north line of Block FF of said Trails of Fossil Creek, Phase 1;

THENCE along the north line of said Block FF as follows:
South 87 degrees 54 minutes 28 seconds West, 408.06 feet to a one-half inch iron rod found for corner;
North 89 degrees 39 minutes 03 seconds West, 202.76 feet to the POINT OF BEGINNING and containing 1,033,620 square feet or 23.729 acres of land.

Tract 4

BEING a tract of land out of the H. Robertson Survey, Abstract No. 1259, located in the City of Fort Worth, Tarrant County, Texas, and being a part of that 221.457 acre tract of land described in deed to MDC-The Trails Limited Partnership, recorded in Document
No. D205076774, Tarrant County Deed Records, and being further described as follows:

BEGINNING at a one-half inch iron rod found at the southeast corner of Lot 13, Block BB, Trails at Fossil Ridge, Phase 1, an addition to the City of Fort Worth as recorded in Cabinet A, Slide 10235, Tarrant County Plat records;

THENCE along the east line of said Phase 1 as follows:
North 00 degrees 04 minutes 33 seconds East, 100.00 feet to a one-half inch iron rod found for corner;
South 89 degrees 55 minutes 27 seconds East, 11.51 feet to a one-half inch iron rod found for corner;
North 00 degrees 04 minutes 33 seconds East, 50.00 feet to a one-half inch iron rod found for corner;
North 44 degrees 55 minutes 27 seconds West, 14.14 feet to a one-half inch iron rod found for corner;
North 00 degrees 04 minutes 33 seconds East, 90.00 feet to a one-half inch iron rod found for corner, said point being in the east line of said 221.457 acre tract of land, said point also being the southwest corner Drill Site #2, as recorded in Document No.D205076774, Tarrant County deed Records;

THENCE along the east line of said 221.457 acre tract of land as follows:
South 89 degrees 55 minutes 27 seconds East, 386.80 feet to a one-half inch iron rod found for the southeast corner of said Drill Site #2;
South 01 degrees 25 minutes 40 seconds West, 2239.18 feet to a one-half inch iron rod found for the northeast corner of Drill Site #3 as recorded in said Document No. D205076774, Tarrant County deed Records;
South 89 degrees 14 minutes 30 seconds West, 400.29 feet to a one-half inch iron rod found for the northwest corner of said Drill Site #3;
South 00 degrees 04 minutes 33 seconds West 273.51 feet along the west line of said Drill Site #3 to a one-half inch iron rod found for corner;

THENCE North 34 degrees 46 minutes 36 seconds West, 191.47 feet to a one-half inch iron rod found for corner;

THENCE Northwesterly, 109.09 feet along a non-tangent curve to the right having a central angle of 125 degrees 00 minutes 35 seconds, a radius of 50.00 feet, a tangent of 96.07 feet, whose chord bears North 30 degrees 53 minutes 04 seconds West, 88.71 feet to a one-half inch iron rod found for corner;

THENCE North 35 degrees 36 minutes 36 seconds West, 112.77 feet to a one-half inch iron rod found for corner;

THENCE North 54 degrees 23 minutes 24 seconds East, 260.00 feet to a one-half inch iron rod found for corner;

THENCE Northwesterly, 139.15 feet along a non-tangent curve to the right having a central angle of 24 degrees 31 minutes 53 seconds, a radius of 325.00 feet, a tangent of 70.66 feet, whose chord bears North 31 degrees 33 minutes 40 seconds West, 138.09 feet
to a one-half inch iron rod found for corner;

THENCE North 19 degrees 17 minutes 43 seconds West, 23.19 feet to a one-half inch iron rod found for corner;

THENCE South 54 degrees 23 minutes 24 seconds West, 104.20 feet to a one-half inch iron rod found for corner;

THENCE North 19 degrees 17 minutes 43 seconds West, 378.63 feet to a one-half inch iron rod found for corner;

THENCE North 70 degrees 42 minutes 17 seconds East, 100.00 feet to a one-half inch iron rod found for corner;

THENCE North 19 degrees 17 minutes 43 seconds West, 877.83 feet to a one-half inch iron rod found for corner in the southeast line of said Phase 1;

THENCE along the southeast line of said Phase 1 as follows:
Northwesterly, 32.18 feet along a non-tangent curve to the right having a central angle of 36 degrees 52 minutes 12 seconds, a radius of 50.00 feet, a tangent of 16.67 feet, whose chord bears North 37 degrees 43 minutes 49 seconds West, 31.62 feet to a one-
half inch iron rod found for corner;
North 19 degrees 17 minutes 43 seconds West, 280.00 feet to a one-half inch iron rod found for corner;
Northwesterly, 32.18 feet along a tangent curve to the right having a central angle of 36 degrees 52 minutes 12 seconds, a radius of 50.00 feet, a tangent of 16.67 feet, whose chord bears North 00 degrees 51 minutes 37 seconds West, 31.62 feet to a one-half inch
iron rod found for corner;
North 19 degrees 17 minutes 43 seconds West, 170.00 feet to a one-half inch iron rod found for corner;
North 70 degrees 42 minutes 17 seconds East, 50.00 feet to a one-half inch iron rod found for corner;
South 19 degrees 17 minutes 43 seconds East, 90.00 feet to a one-half inch iron rod found for corner;
North 70 degrees 42 minutes 17 seconds East, 6.69 feet to a one-half inch iron rod found for corner;

Northeasterly, 473.33 feet along a curve to the right having a central angle of 19 degrees 22 minutes 16 seconds, a radius of 1,400.00 feet, a tangent of 238.94 feet, whose chord bears North 80 degrees 23 minutes 25 seconds East, 471.07 feet to a one-half inch
iron rod found for corner;
South 89 degrees 55 minutes 27 seconds East, 183.05 feet to the POINT OF BEGINNING and containing 1,655,937 square feet or 38.015 acres of land.

EXHIBIT B

NOTICE REQUISITIONING AN ORDINARY RESOLUTION

By Co-Owners

NOTICE IS HEREBY GIVEN that the undersigned Co-owner(s) holding 15% or more of the Undivided Fractional Interests requisitions a general meeting of all Co-Owners, to consider and if thought fit to approve the Resolution(s) attached hereto **by no later than** the _____ day of _____ , _____ (the "**Return Date**").

Dated the _____ day of _____, _____.

Signed:

_____

Name :

Undivided Fractional Interest(s) Unique Identification No(s):

_____

By Facilitator

NOTICE IS HEREBY GIVEN that a general meeting of Co-Owners will be held at [address] on [date] at [time] to consider and if thought fit to approve the Resolution(s) attached as Appendix I. Included in this Notice is a proxy form.

Dated the _____ day of _____, _____.

Signed:

_____

for and on behalf of the Facilitator

Name:

Title:

I have authority to bind the Corporation.

APPENDIX "F"

This document is a Deed of Covenant between Windridge A2A Developments, LLC and Hills of Windridge A2A LP regarding the purchase and ownership of a property in Tarrant County, Texas.

SCHEDULE B

DEED OF COVENANT

THIS DEED OF COVENANT (the "**Deed**") is effective as of the Effective Date (as defined on the signature page hereof) and is made and executed by:

WINDRIDGE A2A DEVELOPMENTS, LLC, a Texas limited liability company with its principal place of business located at 548 Silicon Drive, Suite 100, South Lake, Texas 76092 USA

(hereinafter called the "**Seller**")

-and-

HILLS OF WINDRIDGE A2A LP, an Ontario Limited Partnership with a place of business located at 250 Ferrand Drive, Suite 888, Toronto, M3C 3G8 Canada

(hereinafter called the "**Purchaser**")

RECITALS

WHEREAS the Seller owns certain real property located in Tarrant County, Texas, and legally described on Exhibit A attached hereto and made a part hereof (the "**Property**");

AND WHEREAS the Seller has divided the ownership of the Property into 4,412 undivided, tenant-in-common, fractional interests (the "**Total Fractional Units**") and each undivided fractional ownership interest ("**UFI**") shall constitute a 1/4412 undivided ownership interest in the Property;

AND WHEREAS the Purchaser has entered into an agreement of purchase and sale with the Seller dated as at February 13, 2013 pursuant to which the Purchaser has agreed to purchase up to 1,000 UFIs (the "**Purchased Property**");

AND WHEREAS as a condition of sale the Seller requires the Purchaser to provide certain covenants to and for the benefit of the Seller and for all others, who may become owners of a UFI and which covenants shall be binding on the Purchaser's successors-in-title, trustees, transferees and assigns and the Seller and the Seller's successors-in-title, transferees and assigns and the other Co-Owners successors-in-title, trustees, transferees and assigns and which shall run with and burden the Purchaser's UFI;

AND WHEREAS it is the intention of the Seller to continue to sell its interest in the Property and at its absolute and unfettered discretion, to exercise its right but not the obligation to retain as legal and beneficial owner up to 5% of the Total Fractional Interests and thus remain a Co-owner with all the rights accruing thereto;

NOW THEREFORE THE PURCHASER for itself, its successors-in-title, trustees, transferees and assigns covenant as follows:

ARTICLE 1.
DEFINITIONS AND INTERPRETATION

1.1 For the purposes of this Covenant, the following terms shall be deemed to have the following meanings unless the context otherwise requires:

"**Co-Owners**" are the registered title owners, from time to time, of a UFI and for the purpose of clarity only, includes the Seller so long as the Seller remains a registered owner of a UFI and "Co-**Owner**" means any one of Co-Owners;

"**Development Fund**" means the funds advanced by the Co-Owners to the Facilitator concurrently with the purchase of a UFI and to be maintained in an account or accounts to be opened by the Facilitator under Article 3.1(a) hereof and to be used by the Facilitator for the purposes described in Article 3.1 hereof including, without limitation, for costs and expenses associated with the Planning, Development and Servicing Activities;

"**Facilitator**" means any person or entity, corporate or un-incorporated, who is appointed from time to time under Article 2 by the Co-owners to be their facilitator pursuant to this Deed;

"**Facilitator's Fee**" means a fee charged by the Facilitator for service provided by the Facilitator.

"**FIRPTA**" shall refer to the Foreign Investment in Real Property Tax Act of 1980;

"**Form W-7**" has the meaning provided in Article 16.1;

"**General Meeting**" means a meeting of Co-owners called in accordance with this Deed;

"**IRC**" shall mean the U.S. Internal Revenue Code and any regulations promulgated thereunder;

"**Net Income**" shall have the meaning attributed thereto in Article 3.1(j);

"**Ordinary Resolution**" means a resolution approved by more than 50% of votes cast in person or by proxy at a duly constituted meeting of Co-Owners or any written resolution signed in one or more counterparts by Co-Owners holding, in the aggregate more than 50% of the UFIs;

"**Person**" means either a natural person, a partnership of any type, a corporation, a joint venture, a syndicate, a chartered bank, a trust, a trust company, a government or an agency thereof, a trustee or an executor, an administrator or other legal representative.

"**Planning, Development and Servicing Activities**" means obtaining the reports, information, plans, studies, audits, assessments, inspections, investigations, and other items necessary for the proper design, construction, development and regulatory compliance of the Property; facilitating and participating in legal proceedings, procedures, filings, submissions, applications and other actions necessary for the acquisition, zoning, rezoning, construction, development, maintenance, regulatory compliance and other land use matters related to the Property; contracting, subcontracting, supervising, constructing and maintaining infrastructure and improvements to or on the Property; marketing and selling the Property; in whole or in part and any and all other actions necessary to be taken or made in respect to or in furtherance of the acquisition, planning, development, construction, maintenance and sale of the Property;

"**Property**" means the real property legally described on Exhibit A attached hereto and any and all structures, buildings, erections and improvements located in. on or under on the Property;

"**Proportionate Share**" shall have the meaning attributed thereto in Article 3.1(i);

"**Purchase Agreement**" means the agreement of purchase and sale dated as of February 13, 2013 entered

into by the Seller, as vendor, and the Purchaser, as purchaser, pursuant to which the Purchaser has agreed to acquire and the Seller has agreed to sell to the Purchaser the Purchased Property;

"**Securities Act**" shall refer to *The United States Securities Act of 1933*, as amended; and

"**Special Resolution**" means a resolution approved by 66⅔% or more of votes cast in person or proxy at a duly constituted meeting of Co-Owners or any written resolution signed in one or more counterparts by Co-Owners holding in the aggregate 66.6% or more of the UFIs.

1.2 In the interpretation of this Deed, unless the context otherwise requires:

(a) The division of this Deed into Articles, paragraphs, subparagraphs, schedules and appendices and the insertion of headings are provided for convenience only and do not form a part of this Deed nor are they intended to interpret, define or limit the scope, extent or intent of this Deed or any provision hereof;

(b) All references to decisions, directions, instructions or approvals of the Co-Owners refer to such decisions made or directions, instructions or approvals given by Co-Owners by Ordinary or Special Resolution as the required by this Deed;

(c) All references to currency herein are references to lawful money of United States;

(d) Any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time;

(e) Any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(f) Words importing the masculine gender include the feminine or neuter genders and words in the singular include the plural and *vice versa*; and

(g) All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case requires and the verb shall be construed as agreeing with required word and pronoun.

ARTICLE 2.
ORGANIZATION

2.1 The Facilitator shall carry out the instructions and directions of the Co-Owners made in accordance with this Deed. In carrying out the instructions of Co-Owners, the Facilitator, as may be appointed or changed by the Co-Owners from time to time in the manner provided herein, shall have the power and authority to administer the Property as attorney and agent of the Co-Owners.

2.2 The first Facilitator shall be the Seller. The Co-Owners may by Ordinary Resolution from time to time appoint another Person to be the Facilitator.

2.3 The Facilitator shall:

(a) ensure that every Person who is a registered title holder of a UFI acknowledges this Deed

including, without limitation, acknowledges that this Deed does not have the same covenants that are contained in the restrictive covenant entered into by other Co-Owners and that the other Co-Owners UFIs are subject to the covenants contained in this Deed which are binding upon the Seller and the Purchaser;

(b) take steps to convene the first general meeting of the Co-Owners as soon as feasible following the sale of 95% of the Total Fractional Units; and

(c) implement the decisions and instructions of the Co-Owners.

ARTICLE 3.
SPECIFIC POWERS OF THE FACILITATOR AND FACILITATOR'S FEES

3.1 Subject to contrary directions and instructions of the Co-Owners passed by Ordinary or Special Resolution, the Co-Owners hereby acknowledge and agree that the Facilitator is authorized at all times for and on behalf of the Co-Owners:

(a) to maintain and operate one or more bank accounts opened with a United States bank in the name of the Facilitator. The Facilitator shall deposit therein, the sum of $4,600 for each UFI sold to a Co-Owner including the Purchaser and representing the Co-Owner's contribution to fund the Planning, Development and Servicing Activities (the "**Development Fund**"). Notwithstanding that the Development Fund is maintained in one or more bank accounts in the name of the Facilitator, the Purchaser shall be the owner of the funds contributed by the Purchaser to the Development Fund and the Facilitator agrees to hold such funds in escrow for the purposes described below in this Section 3.1 (a).

All expenses properly relating to the Property including, without limitation, the cost and expenses associated with the management and operation of the Property with any Planning, Development and Servicing Activities, shall be paid by the Facilitator from the Development Fund to the extent of funds available therein;

(b) to execute, deliver and carry out all agreements which require implementation, delivery or execution in connection with the Property, including without limitation, agreements relating to the Planning, Development and Servicing Activities;

(c) to enter into leases and/or tenancy arrangements of the Property, in whole or in part, and to collect all rentals and other income therefrom, provided that nothing herein shall constitute a guarantee by the Facilitator of the payment of any rent by tenants;

(d) to pay all realty taxes, fees and other expenses relating to the orderly maintenance and management of the Property out of the Development Fund to the extent of funds available therein, provided that nothing herein shall be construed as a guarantee by the Facilitator of the sufficiency of funds in the Development Fund to cover all such expenses;

(e) to commence or to defend on behalf of the Co-Owners, at the cost and expense of the Co-Owners, any and all actions and other proceedings pertaining to the Property;

(f) to obtain the amount and type of insurance coverage to protect the Property and the Co-Owners from all usual perils of the type covered by prudent owners of comparable properties and to pay for such insurance out of the Development Fund to the extent of funds available therein, and if

funds are not therein available, at the cost of the Co-Owners in accordance with each Co-Owner's Proportionate Share;

(g) to employ, pay and discharge on behalf of the Co-Owners out of the Development Fund to the extent of funds available therein,, all employees, contractors, or subcontractors necessary to be employed in the management and operation of the Property and the Planning, Development and Servicing Activities and if funds are not available in the Development Fund then at the cost of the Co-Owners in accordance with each Co-Owner's Proportionate Share;

(h) to contract on behalf of the Co-Owners for water, gas, electricity and other services and commodities necessary for the construction, operation, development and maintenance of the Property and to pay for the cost thereof out of the Development Fund to the extent of funds available therein and if funds are not therein available then at the cost of the Co-Owners in accordance with each Co-Owner's Proportionate Share;

(i) To distribute such amount of the Net Income to each Co-owner in accordance with each Co-Owner's Proportionate Share as the Facilitator deems available for distribution and not required for any of the purposes set out in this section 3.1 or for construction or the development of the Property. Each Co-Owners Proportionate Share thereof shall be determined by a fraction the numerator of which shall be the number of UFI(s) owned by such Co-Owner and the denominator shall be the Total Fractional Units ("**Proportionate Share**"). For the purposes of this Deed **"Net Income"** shall mean the gross receipts derived from the ownership, operation, use, leasing, sale of and/or development and/or any other dealing with the Property, less the aggregate of all proper expenses and charges incurred in connection with the Property, calculated on an accrual basis, including, without limitation:

(i) realty taxes, property tax assessments, charges or levies made by any duly constituted governmental or statutory authority, due and owing and secured by a right or apparent right to claim a lien or charge upon the UFIs with respect to the Property, and any money due and owing from improvements to the Property secured by a lien or charge in favour of materialmen or workmen or trade contractors or other like Persons;

(ii) all costs and expenses of any sale;

(iii) all development and re-zoning costs and expenses;

(iv) all costs and expenses or operating, maintaining, leasing, managing, using, and/or developing the Property, and the costs and expenses of repair;

(v) lighting, electricity and public utilities costs and expenses;

(vi) professional fees reasonably attributed to the Property, its operation, use, sale re-zoning and/or development;

(vii) all other costs, expenses or disbursements which are properly attributable to the Property, except payments to the Co-Owners on account of capital or distribution of Net Income;

(viii) Facilitator's Fees; and

(ix) reserves in such amount as deemed reasonably appropriate by the Facilitator from time to time, including without limitation for the purposes of the continued Planning, Development and Servicing Activities of the Property consistent with the Development Plan approved by the Co-Owners.

3.2 In exchange for the services provided by the Facilitator, the Facilitator shall be paid Facilitator's Fees consisting of Fixed Management Fees and Net Income Fees (collectively the "**Facilitator's Fees**"). The Fixed Management Fees shall be five thousand dollars ($5,000) per house sold to any third-party owner who is not a Co-Owner (the "**Third-Party Owner**"). The "**Net Income Fees**" shall be an amount equal to twenty percent (20%) of the Net Income.

3.3 To the extent that pursuant to this Deed, the Co-Owners are liable for the payment of any costs relating to the Property each Co-Owner shall be severally liable for such costs in such Co-Owner's Proportionate Share.

ARTICLE 4.
COVENANTS OF THE CO-OWNERS

4.1 The Purchaser and the Seller covenant and agree with each other as follows:

(a) that each Co-Owner shall have a beneficial interest to the extent of its Proportionate Share in all gross cash receipts derived from the Property;

(b) to be responsible for his/her or its Proportionate Share of the expenses and charges incurred in connection with the Property, and when called upon to contribute its Proportionate Share thereof;

(c) to waive all individual rights of possession, use, occupation and rights of access to the Property and any part thereof and to exercise such rights collectively only; in order to facilitate the future re-zoning and ultimate development of the Property for the benefit of all Co-Owners collectively; and

(d) to require every Person to whom a Co-Owner may hereafter transfer a UFI to execute an agreement wherein the rights of the Co-Owner transferring the UFI are assigned to the transferee and the transferee agrees to assume the obligations of the transferring Co-Owner under this Deed in the case of the Seller or a transferee of the Seller and in the case of each other Co-Owner the obligations of the transferring Co-Owner under the applicable restrictive covenant executed by such Co-Owner.

ARTICLE 5.
LOANS FROM FACILITATOR

5.1 The Facilitator may, in its discretion and on such terms and conditions as the Facilitator deems appropriate, at any time and from time to time, but shall not be under any obligation, lend money to one or more of the Co-Owners, upon such terms and conditions as are acceptable to the Facilitator and the Co-Owner(s), for the purposes of assisting a Co-Owner's in satisfying and performing such Co-Owner's financial obligations under this Deed, including, without limitation, any financial obligations provided for in Section 3.1 hereof, or relating to the maintenance, construction, re-zoning or development of the Property. The Facilitator shall be entitled to repay the amount loaned out of such Co-Owner's

Proportionate Share of the sales proceeds arising from the sale of the Property. If a Facilitator has made such a loan, it shall be a condition of any such loan to a Co-Owner that the Facilitator shall have priority of re-payment of principal and interest over any claim of such Co-Owners to the balance of the Development Fund, Net Income or sale proceeds arising from sale of the Property.

ARTICLE 6.
AUTHORITY OF THE FACILITATOR

6.1 No person dealing with the Facilitator will be required to enquire into the authority of the Facilitator to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf or in the name of the Co-Owners.

6.2 The Facilitator is authorized to withhold any amounts required to be withheld from any distribution or other payment to a Co-owner pursuant to the provisions of the IRC, FIRPTA or other applicable law and to make payment of any such amount on behalf of such Co-Owners to the State of Texas, United State Internal Revenue Service or other governmental entity, as may be required by law.

ARTICLE 7.
GENERAL MEETINGS

7.1 The first General Meeting of Co-Owners shall be held as soon as feasible after the sale by the Seller of 95% of the Total Fractional Units and thereafter general meetings of Co-Owners shall be held as often as is necessary when decisions or instructions are required from Co-Owners with respect to the property or when Co-Owners representing 15% or more of the Total Fractional Units requisition for a meeting.

7.2 The Facilitator may by written notice substantially in the form attached hereto as Exhibit B (the "**Notice Requisitioning an Ordinary Resolution**") call for a general meeting of the Co-Owners and any Co-owner or Co-Owners together holding an aggregate interest of 15% of the Total Fractional Units or more may by written notice to the Facilitator requisition a general meeting using the form attached hereto in Exhibit B. The forms in Exhibit B are for the convenience of Co-Owners and the Facilitator only. If the Facilitator fails to call a general meeting upon requisition by Co-Owners to do so, then in such event, a Co-owner or Co-Owners together holding an aggregate interest of 15% or more of the Total Fractional Units may deliver to the other Co-Owners written notice of general meeting, stating therein the time and venue for the meeting.

7.3 The Facilitator shall provide all Co-Owners 14 days written notice of the first General Meeting and such notice include in the agenda:

(i) A resolution for the confirmation of appointment of the Facilitator;

(ii) Recommended decisions and instructions as may be appropriate for the leasing, rental and/or re-zoning of the Property and/or undertaking Planning, Development and Servicing Activities;

(iii) Recommendation for the appointment or confirmation of appointment of professional advisers and consultants for the management of the Property and to carry out Planning, Development and Servicing Activities; and

(iv) Recommendation for the overall development plan of the Property, which will comprise the development phases for the Property, projection of Net Proceeds and its distribution plan (the "**Development Plan**").

7.4 Not less than 14 days written notice shall be given for all other general meetings and each notice for general meeting after the first General Meeting shall be accompanied by an agenda setting out the matters to be placed before the Co-Owners and the resolutions for consideration and if thought fit, approval. Each agenda shall be accompanied by supporting materials, if any, sufficiently detailed to inform Co-Owners of the matters to be considered at the meeting.

7.5 The venue of all general meetings including the first General Meeting shall be in Flower Mound, Texas, United States at a location to be determined by the Facilitator save and except for a meeting called by one or more Co-Owners under Article 7.2 hereof upon the failure of the Facilitator to comply with a requisition for a meeting.

7.6 Upon receipt of a Notice of a General Meeting, any two Co-Owners may, with one proposing and the other seconding, put forth additional or alternative resolutions for the consideration and if thought fit, approval of other Co-Owners together with supporting materials. Any such proposal shall reach the Facilitator not less than 7 days before the date of meeting and the Facilitator shall forthwith put such resolutions to the Co-Owners for consideration.

7.7 Notices of meeting, agenda and other materials and minutes of meeting shall be sent by the Facilitator to Co-Owners by electronic transmission, or by delivering a copy to the Co-Owners by mail or by courier at his or her last known correspondence address as shown in the register of Co-Owners maintained by the Facilitator.

7.8 Co-Owners shall have one vote for each UFI owned by a Co-Owner and may attend a meeting in person, by corporate representative if a corporation or by proxy. Co-Owners may appoint the Facilitator as proxy and direct the Facilitator how to vote and the Facilitator shall act according to such directions.

7.9 The Facilitator shall chair, and if the Facilitator is a corporation, a director of the Facilitator shall chair the meeting unless the Co-Owners by Ordinary Resolution appoint one of their numbers to chair the meeting.

7.10 All resolutions except where a Special Resolution is expressly required hereunder shall be passed by Ordinary Resolution. Any resolution passed by Ordinary Resolution, except where a Special Resolution is expressly required hereunder, shall be binding on all Co-Owners, their respective heirs, executors, administrators, successors-in-title, assigns and transferees, whether or not any such Co-owner was present in person or by proxy or voted against any such resolution.

7.11 The Facilitator shall, and failing the Facilitator, the Co-Owners shall appoint a secretary to keep complete and accurate minutes of all meetings of Co-Owners and the minutes of meetings shall be signed by the Chairman of the meeting and be prima facie evidence of the facts stated herein.

7.12 The minutes of each meeting shall be sent to each Co-owner within 30 days after the meeting. Any failure to send the minutes of a meeting shall not affect the validity of any decisions made at the meeting.

ARTICLE 8.
MATTERS EXERCISABLE ONLY BY ORDINARY RESOLUTION

8.1 Notwithstanding anything to the contrary contained in this Deed or in any restrictive covenant executed by a Co-Owner the following shall always require a decision of the Co-Owners by way of Ordinary Resolution:

(a) Approving or ratifying a proposal or plan to re-zone, develop and/or build structures on the Property;

(b) Subject to Article 13 consenting to the amendment of this Deed, provided that, no amendment to this Deed shall impose or increase any financial or other obligations upon the Facilitator, or in any way adversely affect the Facilitator, without the prior written approval of the Facilitator and which approval may be denied without the Facilitator having to give any reasons thereof;

(c) Appointment and confirmation of a firm of chartered accounts qualified to practice in United States to prepare the financial statements for the Property and any activities carried on with respect to the Property; and

(d) Any matter relating to ordinary day to day management of and dealings with the Property not expressly requiring a Special Resolution.

ARTICLE 9.
MATTERS EXERCISABLE ONLY BY SPECIAL RESOLUTION

9.1 Notwithstanding anything to the contrary contained in this Deed or in any restrictive covenant executed by a Co-Owner, the following shall always require a decision of the Co-Owners by the way of Special Resolution:

(a) Approving the sale or exchange of all or any part of the Property not being the sale of a UFI by the Seller or other Co-Owners; provided that, no such sale by such Co-Owners shall include an interest in the Property of any other Co-Owner. For greater certainty nothing in this Deed or in any restrictive covenant executed by any Co-Owner shall prohibit the Seller or the Purchaser from selling a UFI of which such Purchaser is the registered title owner under conditions that the assignee or transferee shall be bound by this Deed and nothing in this Deed shall prohibit the Seller or another Co-Owner from selling a UFI of which such other Co-Owner is the registered title owner under conditions that the assignee or transferee shall be bound by the applicable restrictive covenant signed by such selling Co-Owner; or

(b) Approving or ratifying the giving of a loan or advance by the Facilitator under Article 5 above; and

(c) Amendments under Article 13 below.

ARTICLE 10.
CHANGE OF FACILITATOR

10.1 The Co-Owners may by Ordinary Resolution terminate and remove the Facilitator (in its capacity as Facilitator and not as a Co-owner) and appoint a new Facilitator in its place and stead. Such new

Facilitator shall be bound by all of the terms of this Deed and shall by a deed of adherence confirm that it is bound under this Deed as if it was an original signatory thereto. Upon termination, the Facilitator terminated shall forthwith upon request of the person designated in the resolution as the replacement Facilitator (the "**Designated Person**") do the following:

(a) Deliver all agreements, documents, instruments, books and records and writings relating to the Property in its possession to the Designated Person, including, without limitation the register of Co-Owners;

(b) Execute and deliver such consents, acknowledgments, and assignments pertaining to the Property and any Planning, Development and Servicing Activities as the Designated Person may require;

(c) Deliver the bank account or accounts containing the Development Fund to the control of the Designated Person;

(d) Execute and deliver a release in form and content satisfactory to the Designated Person, acting reasonably, releasing the Co-Owners from any liability, provided that:

(i) The release by the Facilitator shall not release the Co-Owners from their obligation to continue to indemnify the Facilitator pursuant to Article 17 hereof; and

(ii) The Facilitator receives a release in form and content satisfactory to the Facilitator, acting reasonably, executed by the Designated Person, authorized to so do on the Co-Owners behalf by resolution in general meeting releasing the Facilitator from any liability with respect to the Property and the Co-Owners which resolution shall expressly acknowledge and agree that the Designated Person shall have the power and authority to deliver such release, without any further approval or authorization required from the Co-Owners; and

(e) Do all things necessary and execute all necessary documents and otherwise cooperate and assist to carrying out and giving effect to each of the actions set out above.

ARTICLE 11.
TRANSFERS OF INTEREST

11.1 The Purchaser shall not sell, transfer, mortgage or otherwise encumber or dispose of a UFI, except in accordance with the provisions of this Deed. The Facilitator shall record the names and address of the Co-Owners, the UFIs held by each Co-owner and each UFI's private unique identification number and particulars of transfers of Interests.

11.2 UFIs may be sold, assigned and transferred by the Purchaser or his agent duly authorized in writing if the following conditions are satisfied:

(a) The transferor and transferee have delivered to the Facilitator an executed assignment and an executed registrable transfer form for the transfer of title to the transferee;

(b) The transferee has agreed in writing in such form as may be acceptable to the Facilitator, to be bound by the terms of this Deed, to assume the obligations of the transferring Co-owner under

this Deed in respect of the UFI being assigned and transferred and have signed all instruments ancillary to this Deed;

(c) The transferee delivers, or causes to be delivered to the Facilitator the form of Durable Special Power of Attorney provided by the Facilitator, duly executed by the transferor and transferee authorizing the lawyers named therein to transfer title to the UFI being assigned and transferred, together with two picture identifications of each of the transferee and transferor duly notarized and otherwise acceptable to such lawyer;

(d) The transferee pays such costs, expenses and disbursements, including legal fees as are reasonably incurred by the Facilitator by reason of the assignment and transfer and registration of the transferee as registered owner; and

(e) The transferee shall provide the Facilitator with evidence reasonably satisfactory to the Facilitator that the transferee is not a U.S. Person as defined under Rule 902 k of the Securities Act.

11.3 When a transferee is entitled to become a Co-owner pursuant to the provisions hereof, the Facilitator will:

(a) Cause the Special Warranty Deed to be recorded with the appropriate county records and provide a copy of the recorded Special Warranty Deed to the UFI; and

(b) Record the transferee as Co-owner.

ARTICLE 12.
BOOKS AND RECORDS

12.1 The Facilitator will keep or cause to be kept and maintained on behalf of the Co-Owners at the Facilitator's principal place of business in Flower Mound, Texas:

(a) Full and accurate books of account and records reflecting the receipts and expenditures relating to the Property and;

(b) A register of Co-Owners.

12.2 The register of Co-Owners shall record:

(a) The names of Co-Owners being the registered title holders, from time to time, of the Property;

(b) The private unique identification number(s) of the UFI (s) held by a Co-owner;

(c) Country of residence of each Co-owner;

(d) Address, telephone number, facsimile number and email address of each Co-owner.

12.3 The documents kept by the Facilitator shall be available for inspection by the Co-Owners.

ARTICLE 13.
AMENDMENTS

13.1 This Deed may be amended in writing on the initiative of the Facilitator and by Special Resolution of the Co-Owners provided that such amendment is solely for the purpose of:

(a) Curing an ambiguity or to correct or supplement any provision contained herein which, in the reasonable opinion of the Facilitator, may be defective or inconsistent with any other provision contained herein, and with respect to which the cure, correction or supplemental provision does not and will not substantially adversely affect the interests of the Purchaser or the other Co-Owners or any one of them; or

(b) Making such other provisions in regard to matters or questions arising under this Deed which, in the reasonable opinion of the Facilitator, do not and will not substantially adversely affect the interest of the Purchaser.

ARTICLE 14.
DEVELOPMENT OF THE PROPERTY

14.1 The Facilitator may propose to the Co-Owners a Development Plan that allows the Facilitator to develop and sell the Property in phases. If the Co-Owners shall approve of such phased development proposal then the Facilitator shall be irrevocably entitled to proceed with such proposal, which shall form the basis of a Development Plan which shall be drawn up with the assistance of the Facilitator, subject to all such amendments as may generally be required to be made thereto in the discretion of the Facilitator.

ARTICLE 15.
SALE OF THE PROPERTY

15.1 An offer (the "**Offer**") to purchase the Property or any portion or phase of the Property received by the Facilitator, which the Facilitator deems credible and on normal commercial terms, shall be presented to the Co-Owners for decision. If such offer to purchase is accepted by the Co-Owners by Special Resolution, then such Resolution shall authorize and be deemed to have authorized the Facilitator to accept the Offer as agent of the Co-Owners which acceptance shall be binding upon all of the Co-Owners.

15.2 The Facilitator shall have the right to purchase, exercisable by notice in writing to the Co-Owners, within 14 days after the Co-Owners have passed a Special Resolution to accept the Offer, the Property on the same terms and conditions as the Offer. If the Facilitator fails to give such notice within 14 days then the Facilitator shall accept the Offer and complete the transaction in accordance therewith on behalf of the Co-Owners.

ARTICLE 16.
INCOME OR MARGIN TAX

16.1 The Purchaser hereby agrees to complete and execute if required the Application for IRS Individual Taxpayer Identification Number ("**Form W-7**"), and authorizes Facilitator to file form W-7 on the Purchaser's behalf.

16.2 In executing this Deed, the Purchaser authorizes Facilitator after consultation with the Purchaser and its financial advisor to apply for, execute and file (and to do all things incidental thereto) on behalf of the

Purchaser any applicable tax forms required by the IRC and any regulations promulgated thereunder or required by the laws of the State of Texas that may be required in respect of any payment made to the Purchaser relating to the Purchaser's Purchased Property or on the disposition of the Property or the Purchased Property .

16.3 The Purchaser hereby agrees that the Seller may withhold any income tax required under the IRC (including but not limited to FIRPTA) or any income or margin tax required by the laws of the State of Texas in respect of any payment made to the Purchaser relating to the Purchaser's UFI, including, but not limited to, any payment made upon the Purchaser's disposition of the UFI. This Deed provides the Seller with a power of attorney and authorization after consultation with the Purchaser and its financial advisor to discuss matters relating to the Purchaser and the transactions of the Purchaser relating to the UFI with officials of the U.S. Internal Revenue Service and their Texas counterparts.

16.4 The Purchaser agrees that it shall be personally liable for the filing of income tax returns and the payment of any income taxes required by the IRC or for the filing of income or margin tax returns and the payment of any income or margin taxes required by the laws of the State of Texas, in excess of the Seller's withholding requirements under the IRC or the laws of the State of Texas, in connection with the purchase of the UFI by the Purchaser, distributions with respect of the UFI or a disposition of the UFI, all in accordance with the IRC or the laws of the State of Texas.

16.5 The covenants of the Purchaser set out in this Article 16 shall survive and shall not merge upon the recording of the Transfer and the completion of the transaction(s) contemplated in this Deed.

ARTICLE 17.
RELEASE, INDEMNIFICATION AND LIMITATION OF LIABILITY

17.1 Each of the Co-Owners, severally and not jointly or jointly and severally, expressly waives any claims against the Seller and the Facilitator and fully, finally completely and generally releases the Seller and the Facilitator, their predecessors, successors, subsidiaries, affiliates, officers, directors, managers, employees, agents, attorneys, attorneys in fact, accountants, and representatives ("**Released Parties**") from any and all claims, actions, demands, and/or causes of action arising under federal and state law, local regulation, or the common law, of whatever kind of character, damages or detriment, whether known or unknown, arising from, relating to, or in any way connected with the Facilitator's filing of tax returns or other documents with any taxing authority.

17.2 Each Co-owner, severally and not jointly or jointly and severally, hereby agrees to indemnify and pay, and hold forever harmless the Seller and the Facilitator, their servants, agents, directors, officers, employees, affiliated companies, parent companies, subsidiaries, predecessors, successors in interest, beneficiaries, insurers, attorneys accountants, assigns, and all Persons in privity with the Seller and Facilitator (the "**Indemnified Parties**") against any loss from any claim, demand, or action (including reasonable legal fees and disbursements) that may hereafter at any time be made or brought against the Seller and the Facilitator by on behalf of or through Co-owner, its affiliates, subsidiaries or successors, that result from or arise out of the Facilitator's filing of tax returns or other documents with any taxing authority. This indemnity is intended to be broad and shall cover all causes of action including but not limited to claims for the Indemnified Parties sole negligence or intentional acts and it is intended to meet the express negligence standard.

ARTICLE 18.
BECOMING A CO-OWNER

18.1 The Purchaser agrees that, (regardless of whether he executed a counterpart of this Deed), that the Purchaser shall be deemed to be a Co-owner under this Deed, and the provisions of this Deed shall constitute an agreement among the Seller and such Co-owner. If this Deed contains terms that are not contained in any other agreement or restrictive covenant signed by or binding on the Seller and another Co-Owner then with respect to the Purchaser this Deed shall govern to the extent of any such term or to the extent of any inconsistency or conflict and the Purchaser shall not be bound by the terms of any other agreement between the Seller and another Co-Owner to the extent of any inconsistency or conflict. The Co-Owners acknowledge and agree that the Seller shall have the right, but not the obligation, to retain an undivided beneficial interest in the Property, to whatever extent it wishes from time to time, and the Seller will therefore be a Co-owner to the extent that it retains any such UFI.

ARTICLE 19.
COMPETING INTERESTS

19.1 Each of the Co-Owners and the Facilitator is enabled, without the consent of any of the others of them, to carry on any business activity of the same nature and competing with that of the Co-Owners, and is not liable to account to each other.

ARTICLE 20.
NOTICES

20.1 Any notice, communication or payment required or permitted to be given to the Co-Owners or anyone of them or the Facilitator shall be in writing and may be given by personal delivery or sent by courier service (delivery charges prepaid) or by mailing to same to be addressed as follows:

(a) To the Facilitator at its respective mailing address;

(b) To each Co-owner at his last address shown on the records maintained by the Facilitator or transmitted by fax or electronically as a PDF file to the fax number or email address provided by the Facilitator or a Co-owner.

Any notice, communication or payment delivered as aforesaid shall be in the English language but may be accompanied by an unofficial translation and shall be deemed to have been given to the address on the day of delivery or, if mailed as aforesaid, shall be deemed to have been given to the address on seventh (7^{th}) business day following the date of deposit thereof in the mail service, provided that, for such purposes, no day during which there shall be a strike or other occurrence which shall interfere with normal mail services shall be considered a business day. Accidental or inadvertent omission or failure to give any notice, communication or payment required or permitted to be given to any Co-owner shall not affect the validity or legality of any proceeding or action undertaken in respect thereof.

Any notice or communications transmitted by fax or electronic mail before 5:00 p.m. (Texas Time) on a business day (being any day of the week, other than a Saturday, Sunday or a day that is statutory holiday in United States), shall be deemed to have been given on such business day, and if transmitted by fax or electronic mail after 5:00 p.m. (Texas Time) on a business day, shall be deemed to have been given on the business day after the date of transmission. If such business day is a statutory holiday in Alberta, Canada or in Ontario, Canada then the transmission by fax or electronic mail shall only be deemed to have been

given on the next business day that is not a statutory holiday in Alberta, Canada or in Ontario, Canada.

ARTICLE 21.
FURTHER ACTS

21.1 The Co-Owners covenant and agree to execute and deliver such further and other documents and to perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Deed and every part hereof.

ARTICLE 22.
BINDING EFFECT

22.1 Subject to the restrictions on assignment and transfer herein contained, this Deed shall enure to the benefit of and be binding upon the Co-Owners and their respective heirs, executors, administrators and other legal representatives, successors-in-title, assigns and transferees.

ARTICLE 23.
SEVERABILITY

23.1 Each provision of this Deed is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

ARTICLE 24.
COUNTERPARTS

24.1 This Deed may be executed in any number of counterparts, by original or facsimile signature, with the same effect as if all parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one and the same agreement.

ARTICLE 25.
REFERENCE DATE

25.1 This Deed is dated for reference purposes as of the date of signature on the signature page.

ARTICLE 26.
TIME

26.1 Time shall be of the essence hereof.

ARTICLE 27.
GOVERNING LAW

27.1 This Deed shall be governed by and construed in accordance with the laws of the State of Texas, in the Country of United States and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the State of Texas, in the Country of United States.

ARTICLE 28.
NO INTENTION TO CREATE A PARTNERSHIP

28.1 The Purchaser and Seller acknowledge, agree and declare that the entering into of this Deed does not, and is not intended to, create a partnership, for legal purposes. The Purchaser and Seller further declare nothing herein is to be construed as a limitation of the powers or rights of any Co-owner to carry on its separate respective activities. Except for the Facilitator as contemplated in this Deed, none of the Co-Owners shall have the right to bind any of the other Co-Owners, transact any business in any of the other Co-Owners' names or on their behalf of incur any liability for or on behalf of any of the other Co-Owners.

ARTICLE 29.
TERMINATION

29.1 This Deed shall remain in full force and effect until the title to the Property and all subdivisions and parts thereof are transferred to a Third-Party Owner and thereafter shall continue to be binding on those Co-Owners who transferred their title to the Third-Party Owner until monies (including the balance of the Development Fund, if any and sales proceeds) are distributed by the Facilitator to the Co-Owners in their respective Proportionate Shares. All Third-Party Owners of the Property shall not be bound by this Deed.

ARTICLE 30.
ENTIRE AGREEMENT

30.1 This Deed, sets forth the entire understanding of the Parties relating to the subject matter thereof, and all prior or contemporaneous understandings, agreements, representations and warranties, whether written or oral, are superseded by this Deed, and all such prior or contemporaneous understandings, agreements, representations and warranties are hereby terminated.

ARTICLE 31.
RECORDING

31.1 The Purchaser acknowledges and agrees that the Seller may, in its sole discretion, not record this Deed but may refer to it in a recorded document against the Property.

EXECUTED at _____, on the _____ day of _____, 2013.

HILLS OF WINDRIDGE A2A LIMITED PARTNERSHIP, by its general partner, Hills of Windridge A2A GP Inc.

By _____
Name:
Title:

ACCEPTANCE

The Seller hereby accepts the terms of this Deed. Notwithstanding anything contained in this Deed to the contrary, the undersigned hereby acknowledges and confirms that this Deed shall be deemed to be dated as of the Effective Date set out below.

EXECUTED at _____, on the _____ day of _____, 2013 (the "**Effective Date**").

HILLS OF WINDRIDGE A2A DEVELOPMENTS, LLC

By _____
Name:
Title:

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 2013 by _____.

Given under my hand and seal of office this _____ day of _____, A.D., 2013.

_____

Notary Public

(SEAL)

Printed Name: _____

My Commission Expires:

_____

AFTER RECORDING RETURN TO:

Jeffrey C. Tasker
Tasker & Peterson, PLLC
4325 Windsor Centre Trail; Suite 600
Flower Mound, Texas 75028

APPENDIX "G"

LEGAL TITLE OWNERSHIP:
UDI UIN: WHC-0066,WHC-0067

WINGHAM CREEK

DEED OF COVENANT

This Deed of Covenant

1. **WINGHAM CREEK A2A DEVELOPMENTS INC.**, a corporation incorporated in the Province of Ontario, Canada with its registered office at 250 Ferrand Drive Suite 888, Toronto Ontario M3C 3G8, Canada (the "**Vendor**") who holds registered title to the Property who has divided ownership of the Property into 1152 undivided fractional interests in the Property more particularly described in Schedule 1 below for itself and for its successors-in-title, transferees and assigns; and

2. 

(the "**Purchaser**") who has purchased from the Vendor _____ undivided fractional interest as tenants-in-common in the property more particularly described in Schedule 1 hereto (the "**Property**").

WHEREAS as a condition of sale the Vendor requires the Purchaser to provide certain covenants to and for the benefit of the Vendor and for all others, who may become Co-owners of the Property as tenants-in-common which covenants shall be binding on the Purchaser's heirs, executors, administrators, successors-in-title, transferees and assigns and the Vendor and the Vendor's successors-in-title, transferees and assigns and which shall run with and burden the Purchaser's and every other Undivided Fractional Interest in the Property ("**UDI**").

AND WHEREAS it is the intention of the Vendor to continue to sell its interest in the Property and at its absolute and unfettered discretion, to exercise its right but not the obligation to retain up to 5% legal and beneficial interest in the Property and thus remain a Co-owner with all the rights accruing thereto.

AND WHEREAS it is the intention of the parties that every Co-owner of the Property, from time to time shall be bound by this Deed of Covenant.

NOW THE PARTIES for themselves, their heirs, executors, administrators, successors-in-title, transferees and assigns covenant as follows:

Article 1.0 Definitions and Interpretation

1.01 For the purposes of this Deed, the following terms shall be deemed to have the following meanings unless the context otherwise requires:

"**Co-owners**" are owners whether having registered title or only a beneficial interest, from time to time, of the undivided tenant-in-common interest in the Property and for the purpose of clarity only, includes the Vendor so long as the Vendor remains a registered or beneficial owner of any Undivided Fractional Interest in the Property and "Co-owner" means any one of them;

"**Concept Planning Fund**" means the account or accounts to be opened by the Facilitator under Article 3.01(a);

"**CRA**" means the Canadian Revenue Agency;

"**Excise Tax Act**" means the Excise *Tax Act (Canada),* as amended from time to time, including the regulations made pursuant thereto;

"**Facilitator**" means any person or entity, corporate or un-incorporate, who is appointed from time to time under Article 2.02 by the Co-owners to be their facilitator pursuant to this Deed;

"**General Meeting**" means a meeting of Co-owners called in accordance with this Deed;

"**HST**" means Harmonized Sales Tax under the *Excise Tax Act, Canada*;

"**Income Tax Act**" means the *Income Tax Act, R.S.C. 1985, c.1 (5th Supp.),* as amended from time to time, including the regulations made pursuant thereto;

"**Land Transfer Tax Act**" means the *Land Transfer Tax Act, R.S.O. c.L.6,* as amended;

"**LTT**" means the land transfer tax payable pursuant to the *Land Transfer Tax Act;*

"**Net Income**" shall have the meaning attributed thereto in article 3.0(j);

"**Ordinary Resolution**" means a resolution approved by more than 50% of votes cast in person or by proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding, in the aggregate more than 50% of the UDIs in the Property;

"**Planning Activities**" means the reports, plans, studies, audits, assessments, investigations, legal proceedings, procedures, filings, submissions, applications and/or other actions taken or made in respect of or in furtherance of the rezoning or other land use matters related to the Property;

"**Property**" means the real property legally described on Schedule 1 annexed hereto;

"**Purchase Agreement**" means the form of agreement of purchase and sale entered into among the Vendor, as vendor, and each Co-owner (other than the Vendor), as purchaser, pursuant to which each Co-owner agreed to acquire its respective UDI;

"**Special Resolution**" means a resolution approved by 66.6% or more of votes cast in person or proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding in the aggregate 66.6% or more of the UDIs in the Property;

"**Undivided Fractional Interest**" or "**UDI**" or "**Interest**" means an undivided fractional interest, as tenants-in-common, in the Property and each UDI comprises a 1/1152 fractional interest in the Property;

1.02 In the interpretation of this Deed, unless the context otherwise requires:

(a) the division of this Deed into Articles, paragraphs, subparagraphs, schedules and appendices and the insertion of headings are provided for convenience only and do not form a part of this Deed nor are they intended to interpret, define or limit the scope, extent or intent of this Deed or any provision hereof;

(b) all references to decisions, directions, instructions or approvals of the Co-owners refer to such decisions made or directions, instructions or approvals given by Co-owners by Ordinary or Special resolutions;

(c) all references to currency herein are references to lawful money of Canada;

(d) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made-pursuant thereto;

(e) any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(f) words importing the masculine gender include the feminine or neuter genders and words in the singular include the plural and vice versa; and

(g) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case requires and the verb shall be construed as agreeing with required word and pronoun.

Article 2.0 Organization

2.01 The Co-owners shall manage the Property and the Facilitator shall carry out the instructions and directions of the Co-owners made in accordance with this Deed. In carrying out the instructions of Co-owners, the Facilitator, as may be appointed or changed by the Co-owners from time to time in the manner provided herein, shall have the power and authority to administer the Property as attorney and agent of the Co-owners.

2.02 The first Facilitator shall be the Vendor. The Co-owners may by Ordinary Resolution from time to time appoint another to be the Facilitator.

2.03 The Facilitator shall:

(a) ensure that every person who is to become or becomes a registered title holder or owner of a beneficial interest of an UDI shall be bound by the covenants contained herein;

(b) take steps to convene the first general meeting of the Co-owners as soon as feasible following the sale of the 1094th UDI in the Property by the Vendor;

(c) Implement the decisions and instructions of the Co-owners.

Article 3.0 Specific Powers of the Facilitator

3.01 Subject to specific other contrary directions and instructions of the Co-owners passed by Ordinary Resolution, the Co-owners hereby acknowledge and agree that the Facilitator is authorized at all times for and on behalf of the Co-owners:

(a) To maintain and operate one or more bank accounts opened with a Canadian chartered bank in the name of the Facilitator. The Facilitator shall deposit therein, the Vendor's contribution of 5.0% of the sales proceeds derived from the sale of UDIs and all rentals and other income that may be earned from the Property (the "**Concept Planning Fund**").

All expenses properly relating to the Property including, without limitation, cost of any Planning Activities, shall be paid by the Facilitator from the monies in such account to the extent of funds available therein.

(b) To execute, deliver and carry out all agreements which require implementation, delivery or execution by or on behalf of the Co-owners in connection with the Property, including without limitation, development agreements, site plan agreements, easements and rights of way.

(c) To enter into a lease and/or tenancy arrangement in respect of the Property and to collect all rentals and other income therefrom, provided that nothing herein shall constitute a guarantee by the Facilitator of the payment of any rent by tenants.

(d) To pay at the cost of the Co-owners all realty taxes, fees and other expenses relating to the orderly maintenance and management of the Property out of the Concept Planning Fund to the extent therein available, provided that nothing therein shall be construed as a guarantee by the Facilitator of the sufficiency of funds to cover all such expenses.

(e) To commence or to defend on behalf of the Co-owners at the cost and expense of the Co-owners, or itself or former Facilitator any and all actions and other proceedings pertaining to the Property or to the Co-owners.

(f) To determine the amount and type of insurance coverage, if any, to be maintained in order to protect the Property and the Co-owners from all usual perils of the type covered in respect of comparable properties.

(g) To employ and pay and discharge on behalf of the Co-owners and at the cost of the Co-owners, all servants, employees or contractors necessary to be employed in the management and operation of the Property and the Planning Activities.

(h) To contract on behalf of the Co-owners and at the cost of the Co-owners for water, gas, electricity and other services and commodities necessary for the operation and maintenance of the Property.

(i) To distribute proportionately amongst the Co-owners according to their respective share the net proceeds arising from a sale by the Co-owners of the Property, after payment of all expenses.

(j) To distribute the Net Income from the ownership, operation, use, and/or sale of the Property (if any) to each Co-owner, proportionate to his respective UDI. For the purposes of this Agreement, "**Net Income**" shall mean the gross receipts (which, for greater certainty, shall not include the Concept Planning Fund) derived in any way from dealing with the Property, received by or on behalf of the Co-owners from the ownership, operation, use, leasing, sale of, and/or development and/or any other dealing with of the Property, minus the aggregate of all proper expenses and charges incurred in connection therewith, calculated on an accrual basis, including, without limitation:

(i) realty taxes, property tax assessments, charges or levies made by any duly constituted governmental or statutory authority, due and owing and secured by a right or apparent right to claim a lien or charge upon the UDIs, or any of them, or the Property, and money due and owing from improvements to the Property secured by a lien or charge in favour of materialmen or workmen or trade contractors or other like persons or corporations upon the Interests, or any of them, or the Property;

(ii) all costs and expenses of any sale;

(iii) all development and re-zoning costs and expenses;

(iv) all costs and expenses of operating, maintaining, leasing, managing, using, and/or developing the Property, and the costs and expenses of repair;

(v) lighting, electricity and public utilities costs and expenses;

(vi) professional fees reasonably attributed to the Property, its operation, use, sale, re-zoning and/or development;

(vii) all other costs, expenses or disbursements which are properly attributable to the Property, except payments to the Co-owners on account of capital or distribution of Net Income; and

(viii) reserves in such amount as deemed appropriate by the Facilitator from time to time, including without limitation for the purposes of replacement of major equipment, major renovations and repairs, leasehold improvements, marketing costs and any other reserves normally required for the prudent operation, use, sale and/or development of a like property.

Article 4.0 Covenants of the Co-owners

4.01 The Co-owners covenant with each other as follows:

(a) That each Co-owner shall have a proportionate beneficial interest in all gross cash receipts derived from the Property to the extent of each Co-owner’s UDI;

(b) To be responsible for his proportionate interest of the expenses and charges incurred in connection with the Property, in each case proportionate to his respective UDI and when called upon to contribute a fair and rateable proportion of the costs of maintaining the Property;

(c) To waive all individual rights of possession, use, occupation and rights of access to the Property and any part thereof and to exercise such rights collectively only; in order to facilitate the future re-zoning and ultimate development of the Property for the benefit of all Co-owners collectively;

(d) To comply with the *Planning Act (Ontario),* as amended from time to time; and

(e) To require every person to whom he may hereafter transfer his UDI to covenant to observe this Deed of Covenant.

Article 5.0 Loans from Facilitator

5.01 The Facilitator may, in its discretion, but shall not be under any obligation, lend money to the Co-owners, upon such terms and conditions as are acceptable to the Facilitator and the Co-owners, for the purposes relating to the maintenance or re-zoning of the Property. The terms and conditions of any such loan shall be approved by the Co-owners by Special Resolution and the Facilitator shall be entitled to repay itself out of the sales proceeds arising from the sale of the Property. If a Facilitator has made such an advance or advances, it shall be a condition of any such loan that the Facilitator shall have priority of re-payment of principal and interest over any claim of Co-owners to the balance of the Concept Planning Fund, Net Income balances or sale proceeds arising from sale of the Property.

Article 6.0 Authority of the Facilitator

6.01 No person dealing with the Facilitator will be required to enquire into the authority of the Facilitator to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf or in the name of the Co-owners.

6.02 The Facilitator is authorized to withhold any amounts required to be withheld from any distribution or other payment to a Co-owner pursuant to the provisions of the *Income Tax Act* and to make payment of any such amount on behalf of such Co-owner to the CRA, as may be required by law.

Article 7.0 General Meetings

7.01 The first General Meeting of Co-owners shall be held as soon as feasible upon the sale by the Vendor of the 1094th UDI and thereafter general meetings of Co-owners shall be held as often as is necessary when decisions or instructions are required from Co-owners for management of the Property or when Co-owners representing 15% or more of the total UDIs requisition for a meeting.

7.02 The Facilitator may by written notice substantially in the form annexed hereto as Schedule 2 (the "**Notice Requisitioning an Ordinary Resolution**") call for a general meeting of the Co-owners and any Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may by written notice to the Facilitator requisition a general meeting using the form annexed hereto in Schedule 2. The forms in Schedule 2 are for the convenience of Co-owners and the Facilitator only. If the Facilitator fails to call a general meeting upon requisition by Co-owners to do so, then in such event, a Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may deliver to the other Co-owners written notice of general meeting, stating therein the time and venue for the meeting which shall be in Ontario, Canada.

7.03 The Facilitator shall provide all Co-owners 14 days written notice of the first General Meeting and such notice include in the agenda:

(i) a resolution for the confirmation of appointment of the Facilitator;

(ii) recommended decisions and instructions as may be appropriate for the leasing, rental and/or re-zoning of the Property and/or undertaking Planning Activities; and

(iii) recommendation for the appointment or confirmation of appointment of professional advisers and consultants for the management of the Property and to carry out Planning Activities.

7.04 Not less than 14 days written notice shall be given for all general meetings and each notice shall be accompanied by an agenda setting out the matters to be placed before the Co-owners and the resolutions for their consideration and if thought fit, approval. Each agenda shall be accompanied by supporting materials, if any, sufficiently detailed to inform Co-owners of the matters to be considered at the meeting. Any notice which does not comply with this Article shall be void.

7.05 The venue of all general meetings including the first General Meeting shall be in Ontario, Canada to be determined by the Facilitator save and except for a meeting called by one or more Co-owners under Article 7.02 upon the failure of the Facilitator to comply with a requisition for a meeting.

7.06 Upon receipt of a Notice of a General Meeting, any two Co-owners may, with one proposing and the other seconding, put forth additional or alternative resolutions for the consideration and if thought fit, approval of other Co-owners together with supporting materials. Any such proposal shall reach the Facilitator not less than 7 days before the date of meeting and the Facilitator shall forthwith put such resolutions to the Co-owners for consideration.

7.07 Notices of meeting, agenda and other materials and minutes of meeting shall be sent by the Facilitator to Co-owners by electronic transmission.

7.08 Co-owners shall have one vote for each UDI and may attend a meeting in person, by corporate representative if a corporation or by proxy. Co-owners may appoint the Facilitator as proxy and direct the Facilitator how to vote and the Facilitator shall act according to such directions.

7.09 The Facilitator shall chair, and if the Facilitator is a corporation, a director of the Facilitator shall chair the meeting unless the Co-owners by Ordinary Resolution appoint one of their numbers to chair the meeting.

7.10 All resolutions except where a Special Resolution is expressly required hereunder shall be passed by Ordinary Resolution. Matters not referred to in the agenda of a general meeting shall not be voted on at that meeting. Any resolution passed by Ordinary Resolution, except where a Special Resolution is expressly required hereunder, shall be binding on all Co-owners, their respective heirs, executors, administrators, successors-in-title, assigns and transferees, whether or not any such Co-owner was present in person or by proxy or voted against any such resolution.

7.11 The Facilitator shall, and failing the Facilitator, the Co-owners shall appoint a Secretary to keep complete and accurate minutes of all meetings of Co-owners and the minutes of meetings shall be signed by the Chairman of the meeting and be prima facie evidence of the facts stated therein.

7.12 The minutes of each meeting shall be sent to each Co-owner within 30 days after the meeting. Any failure to send the minutes of a meeting shall not affect the validity of any decisions made at the meeting.

Article 8.0 Matters Exercisable Only By Ordinary Resolution

8.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by way of Ordinary Resolution:

(a) approving a proposal or plan to re-zone, develop and/or build structures on the Property;

(b) subject to Article 13 consenting to the amendment of this Deed, provided that, no amendment to this Deed shall impose or increase any financial or other obligations upon any of the Facilitator, or in any way adversely affect the Facilitator, without the prior written approval of the Facilitator and which approval may be denied without the Facilitator having to give any reasons therefor;

(c) appointment and confirmation of a firm of chartered accountants qualifed to practice in Canada to prepare the financial statements for the Property and any activities carried on with respect to the Property; and

(d) any matter relating to management of and dealings in the Property.

Article 9.0 Matters Exercisable Only By Special Resolution

9.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by the way of Special Resolution:

(a) Approving the sale or exchange of all or any part of the Property not being the sale of a UDI by the Vendor or other Co-owners; provided that, no such sale by such Co-owners shall include an interest in the Property of any other Co-owner. For greater certainty nothing in this Deed shall prohibit the Vendor or other Co-owner from selling an UDI of which he is the registered owner and under conditions that the assignee or transferee shall be bound by this Deed;

(b) Approving or ratifying the making of a loan or advance by the Facilitator under Article 5.0;

(c) Amendments under Article 13 below.

Article 10.0 Change of Facilitator

10.01 The Co-owners may by Ordinary Resolution terminate and remove the Facilitator (in its capacity as Facilitator and not as a Co-owner) and appoint a new Facilitator in its place and stead. Such new Facilitator shall be bound by all of the terms of this Deed and shall by a deed of adherance confirm that it is bound under this Deed as if it was an original signatory thereto. Upon termination, the Facilitator terminated shall forthwith upon request of the person designated in the resolution as the replacement Facilitator (the "**Designated Person**") do the following:

(a) deliver all agreements, documents, instruments, books and records and writings relating to the Property in its possession to the Designated Person, including, without limitation, the register of Co-owners;

(b) execute and deliver such consents, acknowledgements and assignments pertaining to the Property and any Planning Activities as the Designated Person may require;

(c) deliver the bank account or accounts containing the Concept Planning Fund to the control of the Designated Person;

(d) execute and deliver a release in form and content satisfactory to the Designated Person, acting reasonably, releasing the Co-owners from any liability, provided that:

(i) the release by the Facilitator shall not release the Co-owners from their obligation to continue to indemnify the Facilitator pursuant to Article 17 hereof; and (ii) the Facilitator receives a release in form and content satisfactory to the Facilitator, acting reasonably, executed by the Designated Person, authorised to so do on the Co-owners behalf by resolution in general meeting releasing the Facilitator from any liability with respect to the Property and the Co-owners which resolution shall expressly acknowledge and agree that the Designated Person shall have the power and authority to deliver such release, without any further approval or authorization required from the Co-owners;

(e) do all things necessary and execute all necessary documents and otherwise co-operate and assist to carrying out and giving effect to each of the actions set out above.

Article 11.0 Transfers of Interest

11.01 No Co-owner shall sell, transfer, mortgage or otherwise encumber or dispose of his UDI in the Property, except in accordance with the provisions of this Agreement. The Facilitator shall record the names and address of the Co-owners, the UDIs held by each Co-owner and each UDI's private unique identification number and particulars of transfers of Interests.

11.02 UDIs may be assigned and transferred by a Co-owner or his agent duly authorized in writing if the following conditions are satisfied:

(a) the transferor and transferee have delivered to the Facilitator in the case of a co-owner with registered title, a copy of an executed assignment and a copy of an executed acknowledgement and direction authorizing registration of the transfer/deed of title to the transferee or in the case of the transfer of a beneficial interest a copy of an executed transfer of beneficial interest;

(b) the transferee has agreed in writing in such form as may be acceptable to the Facilitator, to be bound by the terms of this Deed, to assume the obligations of the transferring Co-owner under this Deed in respect of the UDI being assigned and transferred to him and have signed all instruments ancillary to this Deed;

(c) the transferee delivers, or causes to be delivered to the Facilitator the form of Acknowledgement and Direction provided by the Facilitator, duly executed by the transferor and transferee authorizing the Ontario lawyers named therein to transfer title to the UDI being assigned and transferred, together with two picture identifications of each of the transferee and transferor duly notarized acceptable to such lawyer and in the case of the transferee of a beneficial interest, the transferee will

not be required to deliver or cause to be delivered the aforesaid form of Acknowledgement and Direction;

(d) the transferee pays such costs, expenses and disbursements, including legal fees as are reasonably incurred by the Facilitator by reason of the assignment and transfer and registration of the transferee as registered owner;

(e) the transferee pays all applicable HST pursuant to the *Excise Tax Act*, and all applicable LTT pursuant to the *Land Transfer Tax Act,* and makes any and all necessary filings and remittances within the time periods required therefor under the provisions of the *Excise Tax Act* and the *Land Transfer Tax Act* and the respective regulations thereunder;

(f) the transferring Co-owner shall either provide the transferee with evidence reasonably satisfactory to the transferee that the transferring Co-owner is then a "**non-resident**" of Canada within the meaning of the *Income Tax Act (Canada)* or provide the transferee with a certificate pursuant to *subsection 116(2) of the Income Tax Act (Canada)* with a certificate limit in an amount not less than the purchase price for the Undivided Interest being assigned and transferred; provided that if such evidence or certificate is not forthcoming, the transferee shall be entitled to make the payment of tax required under section *116 of the Income Tax Act (Canada)* and to deduct such payment from the purchase price for the UDI being assigned and transferred;

11.03 When a transferee of an Interest is entitled to become a Co-owner pursuant to the provisions hereof, the Facilitator will:

(a) if the transferee is registered on title, cause to be registered with the relevant land registry a transfer of title to the UDI being transferred and provide a copy of the abstract of title showing such registration to the transferee;

(b) record the transferee as Co-owner.

Article 12.0 Books and Records

12.01 The Facilitator will keep or cause to be kept and maintained on behalf of the Co-owners at the Facilitator's principal place of business in Ontario:

(a) full and accurate books of account and records reflecting the receipts and expenditures relating to the Property; and

(b) a register of Co-owners.

12.02 The register of Co-owners shall record:

(a) The names of Co-owners being the registered title holders, from time to time, of the Property;

(b) The private unique identification number(s) of the UDI(s) held by a Co-owner;

(c) Country of residence of each Co-owner;

(d) Address, telephone number, facsimile number and email address of each Co-owner.

12.03 The documents kept by the Facilitator shall be available for inspection by Co-owners.

13.0 Amendments

13.01 This Deed may be amended in writing on the initiative of the Facilitator and by Special Resolution of the Co-owners Provided That such amendment is solely for the purpose of:

(a) curing an ambiguity or to correct or supplement any provision contained herein which, in the reasonable opinion of the Facilitator, may be defective or inconsistent with any other provision contained herein, and with respect to which the cure, correction or supplemental provision does not and will not substantially adversely affect the interests of the Co-owners or any one of them; or

(b) making such other provisions in regard to matters or questions arising under this Deed which, in the reasonable opinion of the Facilitator, do not and will not substantially adversely affect the interest of the Co-owners or any one of them.

14.0 Development of the Property

14.01 Any credible proposal to develop the Property received by the Facilitator from a developer (which developer may include the Vendor) which the Facilitator is of the reasonable opinion to be on normal commercial terms shall be presented to the Co-owners. If the Co-owners shall approve of such development proposal then the Facilitator shall be irrevocably entitled to proceed with such proposal, which shall form the basis of a development plan which shall be drawn up with the assistance of the Facilitator, subject to all such amendments as may generally be required to be made thereto, in the discretion of the Facilitator.

15.0 Sale of the Property

15.01 An offer (the "**Offer**") to purchase the Property received by the Facilitator, which the Facilitator deems credible and on normal commercial terms, shall be presented to the Co-owners for decision. If such offer to purchase is accepted by the Co-owners by Special Resolution, then such Resolution shall authorise and be deemed to have authorized the Facilitator to accept the Offer as agent of the Co-owners which acceptance shall be binding upon all of the Co-owners.

15.02 The Co-owners covenant that the Facilitator shall have the right to purchase, exercisable by notice in writing to the Co-owners, within 14 days after the Co-owners have passed a Resolution to accept the Offer, to purchase the Property on the same terms and conditions as the Offer. If the Facilitator fails to give such notice within 14 days then the Facilitator shall accept the Offer and complete the transaction in accordance therewith on behalf of the Co-owners.

16.0 HST and LTT

16.01 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and /or remittances relating to HST from funds provided by the Co-owner arising out of the purchase by each Co-owner from the Vendor of his respective UDI in the Property, as well as HST arising out of the management and operation of the Property. In executing the Purchase Agreement, each Co-owner has authorized the Vendor, on its behalf, to make a file, an election or elections jointly with the Vendor under subsection 273(1) of the *Excise Tax Act.*

For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator to carry out any HST reporting or filing obligations that are required or available to the Co-owners in respect of their Interests. Such authority shall include the execution of any documents that have to be or which may be advisable to be executed under the *Excise Tax Act*.

16.02 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and/or remittances, from funds provided by the Co-owner, relating to LTT arising out of the purchase by each Co-owner from the Vendor of his respective Interest in the Property. For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator on behalf of the Co-owner and with the Co-owner's funds to make any and all remittances and filings within the time period required therefor under the provisions of the *Land Transfer Tax Act* relating to LTT pursuant to the *Land Transfer Tax Act* required to be made by the Co-owner arising from the acquisition and/or ownership of the Interest.

Article 17.0 Indemnification

17.01 Each of the Co-owners agrees, severally and not jointly or jointly and severally, to indemnify and hold harmless the Facilitator from and against any and all demands, claims, actions, causes of action, losses, costs, expenses, liabilities and damages (including reasonable legal fees and disbursements) incurred by the Facilitator or by any one or more attorneys appointed by it or them under the power to substitute pursuant to a Power of Attorney granted to the Facilitator or by reason of acts, omissions or alleged acts or omissions arising out of the activities of the Facilitator on behalf of the Co-owners or in furtherance of the interest of the Co-owners but only if the acts, omissions or the alleged acts or omissions in respect of which any actual or threatened action, proceeding or claim are based, were performed in good faith and

were not performed or omitted fraudulently or as a result of wilful misconduct or the gross negligence of the Facilitator.

Article 18.0 Becoming a Co-owner

18.01 Each of the Co-owners agrees that, by his purchase of an UDI from the Vendor (regardless of whether he executed a counterpart of this Deed) and completion of his acquisition pursuant to the Purchase Agreement, he shall be deemed to be a Co-owner, and the provisions of this Deed shall constitute an agreement among the Vendor, such Co-owner and all other Co-owners from time to time. The Co-owners acknowledge and agree that the Vendor shall have the right, but not the obligation, to retain an Interest in the Property, to whatever extent it wishes from time to time, and the Vendor will therefore be a Co-owner to the extent that it retains any such Interest.

Article 19.0 Competing Interests

19.01 Each of the Co-owners and the Facilitator is enabled, without the consent of any of the others of them, to carry on any business activity of the same nature and competing with that of the Co-owners, and is not liable to account to any of the other of them.

Article 20.0 Notices

20.01 Any notice, communication or payment required or permitted to be given to the Co-owners or anyone of them or the Facilitator shall be in writing and may be given by personal delivery or sent by courier service (delivery charges prepaid) or by mailing to same to be addressed as follows:

(a) To the Facilitator at its respective mailing address;

(b) To each Co-owner at his last address shown on the records maintained by the Facilitator or transmitted by fax or electronically as a PDF file to the fax number or email address provided by the Facilitator or a Co-owner.

Any notice, communication or payment delivered as aforesaid shall be in the English language but may be accompanied by an unofficial translation and shall be deemed to have been given to the addressee on the day of delivery or, if mailed as aforesaid, shall be deemed to have been given to the addressee on fifth (5th) business day following the date of deposit thereof in the mail service, provided that, for such purposes, no day during which there shall be a strike or other occurrence which shall interfere with normal mail services shall be considered a business day. Accidental or inadvertent omission or failure to give any notice, communication or payment required or permitted to be given to any Co-owner shall not affect the validity or legality of any proceeding or action undertaken in respect thereof.

Any notice or communications transmitted by fax or electronic mail before 5:00 p.m. (Toronto Time) on a Business Day (being any day of the week, other than a Saturday, Sunday or a day that is a statutory holiday in Canada), shall be deemed to have been given on such Business Day, and if transmitted by fax or electronic mail after 5:00 p.m. (Toronto Time) on a Business Day, shall be deemed to have been given on the Business Day after the date of transmission.

Article 21.0 Further Acts

21.01 The Co-owners covenant and agree to execute and deliver such further and other documents and to perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Deed and every part hereof.

Article 22.0 Binding Effect

22.01 Subject to the restrictions on assignment and transfer herein contained, this Deed shall ensure to the benefit of and be binding upon the Co-owners and their respective heirs, executors, administrators and other legal representatives, successors-in-title, assigns and transferees.

Article 23.0 Severability

23.01 Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

Article 24.0 Counterparts

24.01 This Agreement may be executed in any number of counterparts, by original or facsimile signature, with the same affect as if all parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one and the same agreement.

Article 25.0 Reference Date

25.01 This Agreement is dated for reference purposes as of the date of signature on the signature page.

Article 26.0 Time

26.01 Time shall be of the essence hereof.

Article 27.0 Governing Law

27.01 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, in the Country of Canada and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the Province of Ontario, in the Country of Canada.

Article 28.0 No Intention to Create a Partnership

28.01 The Co-owners acknowledge, agree and declare that the entering into of this Agreement does not, and is not intended to, create a partnership, for either legal, income tax, accounting or other purposes. The Co-owners further declare nothing herein is to be construed as a limitation of the powers or rights of any Co-owner to carry on its separate respective activities. Except for the Facilitator as contemplated in this Agreement, none of the Co-owners shall have the right to bind any of the other Co-owners, transact any business in any of the other Co-owners' names or on their behalf or incur any liability for or on behalf of any of the other Co-owners. The Co-owners agree that they shall each report their income or loss arising from the ownership of their Interests, for both accounting and income tax purposes, and to the applicable taxing authorities, as co-ventures independent of one another, and not as partners in a partnership.

Article 29.0 Termination

29.01 This Deed shall remain in full force and effect until the title to the Property is transferred to one registered owner (the "**Sole Owner**") and thereafter shall continue to be binding on those Co-owners who transferred their title to the Sole Owner until all monies (including the balance of the Concept Planning Fund, if any and sales proceeds) are distributed by the Facilitator proportionately to the Co-owners.

Article 30.0 Entire Agreement

30.01 This Deed, sets forth the entire understanding of the Parties relating to the subject matter thereof, and all prior or contemporaneous understandings, agreements, representations and warranties, whether written or oral, are superseded by this Deed, and all such prior or contemporaneous understandings, agreements, representations and warranties are hereby terminated.

APPENDIX "H"

LEGAL TITLE OWNERSHIP:
UDI UIN: LHS-0516,LHS-0527,LHS-0528,LHS-0529

LAKE HURON SHORES
DEED OF COVENANT

This Deed of Covenant made as of the AUGUST 21, 2012 ,between :

1. **LAKE HURON SHORES A2A DEVELOPMENTS INC.**, a corporation incorporated in the Province of Ontario, Canada with its registered office at 250 Ferrand Drive Suite 888, Toronto Ontario M3C 3G8, Canada (the "**Vendor**") who holds registered title to the Property who has divided ownership of the Property into 870 undivided fractional interests in the Property more particularly described in Schedule 1 below for itself and for its successors-in-title, transferees and assigns; and

2. [redacted]

(the "**Purchaser**") who has purchased from the Vendor 4/870 undivided fractional interest as tenants-in-common in the property more particularly described in Schedule 1 hereto (the "**Property**").

WHEREAS as a condition of sale the Vendor requires the Purchaser to provide certain covenants to and for the benefit of the Vendor and for all others, who may become Co-owners of the Property as tenants-in-common which covenants shall be binding on the Purchaser's heirs, executors, administrators, successors-in-title, transferees and assigns and the Vendor and the Vendor's successors-in-title, transferees and assigns and which shall run with and burden the Purchaser's and every other Undivided Fractional Interest in the Property ("**UDI**").

AND WHEREAS it is the intention of the Vendor to continue to sell its interest in the Property and at its absolute and unfettered discretion, to exercise its right but not the obligation to retain up to 5% legal and beneficial interest in the Property and thus remain a Co-owner with all the rights accruing thereto.

AND WHEREAS it is the intention of the parties that every Co-owner of the Property, from time to time shall be bound by this Deed of Covenant.

NOW THE PARTIES for themselves, their heirs, executors, administrators, successors-in-title, transferees and assigns covenant as follows:

Article 1.0 Definitions and Interpretation

1.01 For the purposes of this Deed, the following terms shall be deemed to have the following meanings unless the context otherwise requires:

"**Co-owners**" are owners whether having registered title or only a beneficial interest, from time to time, of the undivided tenant-in-common interest in the Property and for the purpose of clarity only, includes the Vendor so long as the Vendor remains a registered or beneficial owner of any Undivided Fractional Interest in the Property and "Co-owner" means any one of them;

"**Concept Planning Fund**" means the account or accounts to be opened by the Facilitator under Article 3.01(a);

"**CRA**" means the Canadian Revenue Agency;

"**Excise Tax Act**" means the Excise *Tax Act (Canada),* as amended from time to time, including the regulations made pursuant thereto;

"**Facilitator**" means any person or entity, corporate or un-incorporate, who is appointed from time to time under Article 2.02 by the Co-owners to be their facilitator pursuant to this Deed;

"**General Meeting**" means a meeting of Co-owners called in accordance with this Deed;

"**HST**" means Harmonized Sales Tax under the *Excise Tax Act, Canada*;

"**Income Tax Act**" means the *Income Tax Act, R.S.C. 1985, c.1 (5th Supp.),* as amended from time to time, including the regulations made pursuant thereto;

"**Land Transfer Tax Act**" means the *Land Transfer Tax Act, R.S.O. c.L.6,* as amended;

"**LTT**" means the land transfer tax payable pursuant to the *Land Transfer Tax Act;*

"**Net Income**" shall have the meaning attributed thereto in article 3.0(j);

"**Ordinary Resolution**" means a resolution approved by more than 50% of votes cast in person or by proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding, in the aggregate more than 50% of the UDIs in the Property;

"**Planning Activities**" means the reports, plans, studies, audits, assessments, investigations, legal proceedings, procedures, filings, submissions, applications and/or other actions taken or made in respect of or in furtherance of the rezoning or other land use matters related to the Property;

"**Property**" means the real property legally described on Schedule 1 annexed hereto;

"**Purchase Agreement**" means the form of agreement of purchase and sale entered into among the Vendor, as vendor, and each Co-owner (other than the Vendor), as purchaser, pursuant to which each Co-owner agreed to acquire its respective UDI;

"**Special Resolution**" means a resolution approved by 66.6% or more of votes cast in person or proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding in the aggregate 66.6% or more of the UDIs in the Property;

"**Undivided Fractional Interest**" or "**UDI**" or "**Interest**" means an undivided fractional interest, as tenants-in-common, in the Property and each UDI comprises a 1/870 fractional interest in the Property;

1.02 In the interpretation of this Deed, unless the context otherwise requires:

(a) the division of this Deed into Articles, paragraphs, subparagraphs, schedules and appendices and the insertion of headings are provided for convenience only and do not form a part of this Deed nor are they intended to interpret, define or limit the scope, extent or intent of this Deed or any provision hereof;

(b) all references to decisions, directions, instructions or approvals of the Co-owners refer to such decisions made or directions, instructions or approvals given by Co-owners by Ordinary or Special resolutions;

(c) all references to currency herein are references to lawful money of Canada;

(d) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made-pursuant thereto;

(e) any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(f) words importing the masculine gender include the feminine or neuter genders and words in the singular include the plural and vice versa; and

(g) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case requires and the verb shall be construed as agreeing with required word and pronoun.

Article 2.0 Organization

2.01 The Co-owners shall manage the Property and the Facilitator shall carry out the instructions and directions of the Co-owners made in accordance with this Deed. In carrying out the instructions of Co-owners, the Facilitator, as may be appointed or changed by the Co-owners from time to time in the manner provided herein, shall have the power and authority to administer the Property as attorney and agent of the Co-owners.

2.02 The first Facilitator shall be the Vendor. The Co-owners may by Ordinary Resolution from time to time appoint another to be the Facilitator.

2.03 The Facilitator shall:

(a) ensure that every person who is to become or becomes a registered title holder or owner of a beneficial interest of an UDI shall be bound by the covenants contained herein;

(b) take steps to convene the first general meeting of the Co-owners as soon as feasible following the sale of the 826th UDI in the Property by the Vendor;

(c) Implement the decisions and instructions of the Co-owners.

Article 3.0 Specific Powers of the Facilitator

3.01 Subject to specific other contrary directions and instructions of the Co-owners passed by Ordinary Resolution, the Co-owners hereby acknowledge and agree that the Facilitator is authorized at all times for and on behalf of the Co-owners:

(a) To maintain and operate one or more bank accounts opened with a Canadian chartered bank in the name of the Facilitator. The Facilitator shall deposit therein, the Vendor's contribution of 5.0% of the sales proceeds derived from the sale of UDIs and all rentals and other income that may be earned from the Property (the "**Concept Planning Fund**").

All expenses properly relating to the Property including, without limitation, cost of any Planning Activities, shall be paid by the Facilitator from the monies in such account to the extent of funds available therein.

(b) To execute, deliver and carry out all agreements which require implementation, delivery or execution by or on behalf of the Co-owners in connection with the Property, including without limitation, development agreements, site plan agreements, easements and rights of way.

(c) To enter into a lease and/or tenancy arrangement in respect of the Property and to collect all rentals and other income therefrom, provided that nothing herein shall constitute a guarantee by the Facilitator of the payment of any rent by tenants.

(d) To pay at the cost of the Co-owners all realty taxes, fees and other expenses relating to the orderly maintenance and management of the Property out of the Concept Planning Fund to the extent therein available, provided that nothing therein shall be construed as a guarantee by the Facilitator of the sufficiency of funds to cover all such expenses.

(e) To commence or to defend on behalf of the Co-owners at the cost and expense of the Co-owners, or itself or former Facilitator any and all actions and other proceedings pertaining to the Property or to the Co-owners.

(f) To determine the amount and type of insurance coverage, if any, to be maintained in order to protect the Property and the Co-owners from all usual perils of the type covered in respect of comparable properties.

(g) To employ and pay and discharge on behalf of the Co-owners and at the cost of the Co-owners, all servants, employees or contractors necessary to be employed in the management and operation of the Property and the Planning Activities.

(h) To contract on behalf of the Co-owners and at the cost of the Co-owners for water, gas, electricity and other services and commodities necessary for the operation and maintenance of the Property.

(i) To distribute proportionately amongst the Co-owners according to their respective share the net proceeds arising from a sale by the Co-owners of the Property, after payment of all expenses.

(j) To distribute the Net Income from the ownership, operation, use, and/or sale of the Property (if any) to each Co-owner, proportionate to his respective UDI. For the purposes of this Agreement, "**Net Income**" shall mean the gross receipts (which, for greater certainty, shall not include the Concept Planning Fund) derived in any way from dealing with the Property, received by or on behalf of the Co-owners from the ownership, operation, use, leasing, sale of, and/or development and/or any other dealing with of the Property, minus the aggregate of all proper expenses and charges incurred in connection therewith, calculated on an accrual basis, including, without limitation:

(i) realty taxes, property tax assessments, charges or levies made by any duly constituted governmental or statutory authority, due and owing and secured by a right or apparent right to claim a lien or charge upon the UDIs, or any of them, or the Property, and money due and owing from improvements to the Property secured by a lien or charge in favour of materialmen or workmen or trade contractors or other like persons or corporations upon the Interests, or any of them, or the Property;

(ii) all costs and expenses of any sale;

(iii) all development and re-zoning costs and expenses;

(iv) all costs and expenses of operating, maintaining, leasing, managing, using, and/or developing the Property, and the costs and expenses of repair;

(v) lighting, electricity and public utilities costs and expenses;

(vi) professional fees reasonably attributed to the Property, its operation, use, sale, re-zoning and/or development;

(vii) all other costs, expenses or disbursements which are properly attributable to the Property, except payments to the Co-owners on account of capital or distribution of Net Income; and

(viii) reserves in such amount as deemed appropriate by the Facilitator from time to time, including without limitation for the purposes of replacement of major equipment, major renovations and repairs, leasehold improvements, marketing costs and any other reserves normally required for the prudent operation, use, sale and/or development of a like property.

Article 4.0 Covenants of the Co-owners

4.01 The Co-owners covenant with each other as follows:

(a) That each Co-owner shall have a proportionate beneficial interest in all gross cash receipts derived from the Property to the extent of each Co-owner's UDI;

(b) To be responsible for his proportionate interest of the expenses and charges incurred in connection with the Property, in each case proportionate to his respective UDI and when called upon to contribute a fair and rateable proportion of the costs of maintaining the Property;

(c) To waive all individual rights of possession, use, occupation and rights of access to the Property and any part thereof and to exercise such rights collectively only; in order to facilitate the future re-zoning and ultimate development of the Property for the benefit of all Co-owners collectively;

(d) To comply with the *Planning Act (Ontario),* as amended from time to time; and

(e) To require every person to whom he may hereafter transfer his UDI to covenant to observe this Deed of Covenant.

Article 5.0 Loans from Facilitator

5.01 The Facilitator may, in its discretion, but shall not be under any obligation, lend money to the Co-owners, upon such terms and conditions as are acceptable to the Facilitator and the Co-owners, for the purposes relating to the maintenance or re-zoning of the Property. The terms and conditions of any such loan shall be approved by the Co-owners by Special Resolution and the Facilitator shall be entitled to repay itself out of the sales proceeds arising from the sale of the Property. If a Facilitator has made such an advance or advances, it shall be a condition of any such loan that the Facilitator shall have priority of re-payment of principal and interest over any claim of Co-owners to the balance of the Concept Planning Fund, Net Income balances or sale proceeds arising from sale of the Property.

Article 6.0 Authority of the Facilitator

6.01 No person dealing with the Facilitator will be required to enquire into the authority of the Facilitator to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf or in the name of the Co-owners.

6.02 The Facilitator is authorized to withhold any amounts required to be withheld from any distribution or other payment to a Co-owner pursuant to the provisions of the *Income Tax Act* and to make payment of any such amount on behalf of such Co-owner to the CRA, as may be required by law.

Article 7.0 General Meetings

7.01 The first General Meeting of Co-owners shall be held as soon as feasible upon the sale by the Vendor of the 826th UDI and thereafter general meetings of Co-owners shall be held as often as is necessary when decisions or instructions are required from Co-owners for management of the Property or when Co-owners representing 15% or more of the total UDIs requisition for a meeting.

7.02 The Facilitator may by written notice substantially in the form annexed hereto as Schedule 2 (the "**Notice Requisitioning an Ordinary Resolution**") call for a general meeting of the Co-owners and any Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may by written notice to the Facilitator requisition a general meeting using the form annexed hereto in Schedule 2. The forms in Schedule 2 are for the convenience of Co-owners and the Facilitator only. If the Facilitator fails to call a general meeting upon requisition by Co-owners to do so, then in such event, a Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may deliver to the other Co-owners written notice of general meeting, stating therein the time and venue for the meeting which shall be in Ontario, Canada.

7.03 The Facilitator shall provide all Co-owners 14 days written notice of the first General Meeting and such notice include in the agenda:

(i) a resolution for the confirmation of appointment of the Facilitator;

(ii) recommended decisions and instructions as may be appropriate for the leasing, rental and/or re-zoning of the Property and/or undertaking Planning Activities; and

(iii) recommendation for the appointment or confirmation of appointment of professional advisers and consultants for the management of the Property and to carry out Planning Activities.

7.04 Not less than 14 days written notice shall be given for all general meetings and each notice shall be accompanied by an agenda setting out the matters to be placed before the Co-owners and the resolutions for their consideration and if thought fit, approval. Each agenda shall be accompanied by supporting materials, if any, sufficiently detailed to inform Co-owners of the matters to be considered at the meeting. Any notice which does not comply with this Article shall be void.

7.05 The venue of all general meetings including the first General Meeting shall be in Ontario, Canada to be determined by the Facilitator save and except for a meeting called by one or more Co-owners under Article 7.02 upon the failure of the Facilitator to comply with a requisition for a meeting.

7.06 Upon receipt of a Notice of a General Meeting, any two Co-owners may, with one proposing and the other seconding, put forth additional or alternative resolutions for the consideration and if thought fit, approval of other Co-owners together with supporting materials. Any such proposal shall reach the Facilitator not less than 7 days before the date of meeting and the Facilitator shall forthwith put such resolutions to the Co-owners for consideration.

7.07 Notices of meeting, agenda and other materials and minutes of meeting shall be sent by the Facilitator to Co-owners by electronic transmission.

7.08 Co-owners shall have one vote for each UDI and may attend a meeting in person, by corporate representative if a corporation or by proxy. Co-owners may appoint the Facilitator as proxy and direct the Facilitator how to vote and the Facilitator shall act according to such directions.

7.09 The Facilitator shall chair, and if the Facilitator is a corporation, a director of the Facilitator shall chair the meeting unless the Co-owners by Ordinary Resolution appoint one of their numbers to chair the meeting.

7.10 All resolutions except where a Special Resolution is expressly required hereunder shall be passed by Ordinary Resolution. Matters not referred to in the agenda of a general meeting shall not be voted on at that meeting. Any resolution passed by Ordinary Resolution, except where a Special Resolution is expressly required hereunder, shall be binding on all Co-owners, their respective heirs, executors, administrators, successors-in-title, assigns and transferees, whether or not any such Co-owner was present in person or by proxy or voted against any such resolution.

7.11 The Facilitator shall, and failing the Facilitator, the Co-owners shall appoint a Secretary to keep complete and accurate minutes of all meetings of Co-owners and the minutes of meetings shall be signed by the Chairman of the meeting and be prima facie evidence of the facts stated therein.

7.12 The minutes of each meeting shall be sent to each Co-owner within 30 days after the meeting. Any failure to send the minutes of a meeting shall not affect the validity of any decisions made at the meeting.

Article 8.0 Matters Exercisable Only By Ordinary Resolution

8.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by way of Ordinary Resolution:

(a) approving a proposal or plan to re-zone, develop and/or build structures on the Property;

(b) subject to Article 13 consenting to the amendment of this Deed, provided that, no amendment to this Deed shall impose or increase any financial or other obligations upon any of the Facilitator, or in any way adversely affect the Facilitator, without the prior written approval of the Facilitator and which approval may be denied without the Facilitator having to give any reasons therefor;

(c) appointment and confirmation of a firm of chartered accountants qualifed to practice in Canada to prepare the financial statements for the Property and any activities carried on with respect to the Property; and

(d) any matter relating to management of and dealings in the Property.

Article 9.0 Matters Exercisable Only By Special Resolution

9.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by the way of Special Resolution:

(a) Approving the sale or exchange of all or any part of the Property not being the sale of a UDI by the Vendor or other Co-owners; provided that, no such sale by such Co-owners shall include an interest in the Property of any other Co-owner. For greater certainty nothing in this Deed shall prohibit the Vendor or other Co-owner from selling an UDI of which he is the registered owner and under conditions that the assignee or transferee shall be bound by this Deed;

(b) Approving or ratifying the making of a loan or advance by the Facilitator under Article 5.0;

(c) Amendments under Article 13 below.

Article 10.0 Change of Facilitator

10.01 The Co-owners may by Ordinary Resolution terminate and remove the Facilitator (in its capacity as Facilitator and not as a Co-owner) and appoint a new Facilitator in its place and stead. Such new Facilitator shall be bound by all of the terms of this Deed and shall by a deed of adherance confirm that it is bound under this Deed as if it was an original signatory thereto. Upon termination, the Facilitator terminated shall forthwith upon request of the person designated in the resolution as the replacement Facilitator (the "**Designated Person**") do the following:

(a) deliver all agreements, documents, instruments, books and records and writings relating to the Property in its possession to the Designated Person, including, without limitation, the register of Co-owners;

(b) execute and deliver such consents, acknowledgements and assignments pertaining to the Property and any Planning Activities as the Designated Person may require;

(c) deliver the bank account or accounts containing the Concept Planning Fund to the control of the Designated Person;

(d) execute and deliver a release in form and content satisfactory to the Designated Person, acting reasonably, releasing the Co-owners from any liability, provided that:

(i) the release by the Facilitator shall not release the Co-owners from their obligation to continue to indemnify the Facilitator pursuant to Article 17 hereof; and (ii) the Facilitator receives a release in form and content satisfactory to the Facilitator, acting reasonably, executed by the Designated Person, authorised to so do on the Co-owners behalf by resolution in general meeting releasing the Facilitator from any liability with respect to the Property and the Co-owners which resolution shall expressly acknowledge and agree that the Designated Person shall have the power and authority to deliver such release, without any further approval or authorization required from the Co-owners;

(e) do all things necessary and execute all necessary documents and otherwise co-operate and assist to carrying out and giving effect to each of the actions set out above.

Article 11.0 Transfers of Interest

11.01 No Co-owner shall sell, transfer, mortgage or otherwise encumber or dispose of his UDI in the Property, except in accordance with the provisions of this Agreement. The Facilitator shall record the names and address of the Co-owners, the UDIs held by each Co-owner and each UDI's private unique identification number and particulars of transfers of Interests.

11.02 UDIs may be assigned and transferred by a Co-owner or his agent duly authorized in writing if the following conditions are satisfied:

(a) the transferor and transferee have delivered to the Facilitator in the case of a co-owner with registered title, a copy of an executed assignment and a copy of an executed acknowledgement and direction authorizing registration of the transfer/deed of title to the transferee or in the case of the transfer of a beneficial interest a copy of an executed transfer of beneficial interest;

(b) the transferee has agreed in writing in such form as may be acceptable to the Facilitator, to be bound by the terms of this Deed, to assume the obligations of the transferring Co-owner under this Deed in respect of the UDI being assigned and transferred to him and have signed all instruments ancillary to this Deed;

(c) the transferee delivers, or causes to be delivered to the Facilitator the form of Acknowledgement and Direction provided by the Facilitator, duly executed by the transferor and transferee authorizing the Ontario lawyers named therein to transfer title to the UDI being assigned and transferred, together with two picture identifications of each of the transferee and transferor duly notarized acceptable to such lawyer and in the case of the transferee of a beneficial interest, the transferee will

not be required to deliver or cause to be delivered the aforesaid form of Acknowledgement and Direction;

(d) the transferee pays such costs, expenses and disbursements, including legal fees as are reasonably incurred by the Facilitator by reason of the assignment and transfer and registration of the transferee as registered owner;

(e) the transferee pays all applicable HST pursuant to the *Excise Tax Act*, and all applicable LTT pursuant to the *Land Transfer Tax Act,* and makes any and all necessary filings and remittances within the time periods required therefor under the provisions of the *Excise Tax Act* and the *Land Transfer Tax Act* and the respective regulations thereunder;

(f) the transferring Co-owner shall either provide the transferee with evidence reasonably satisfactory to the transferee that the transferring Co-owner is then a "**non-resident**" of Canada within the meaning of the *Income Tax Act (Canada)* or provide the transferee with a certificate pursuant to *subsection 116(2) of the Income Tax Act (Canada)* with a certificate limit in an amount not less than the purchase price for the Undivided Interest being assigned and transferred; provided that if such evidence or certificate is not forthcoming, the transferee shall be entitled to make the payment of tax required under section *116 of the Income Tax Act (Canada)* and to deduct such payment from the purchase price for the UDI being assigned and transferred;

11.03 When a transferee of an Interest is entitled to become a Co-owner pursuant to the provisions hereof, the Facilitator will:

(a) if the transferee is registered on title, cause to be registered with the relevant land registry a transfer of title to the UDI being transferred and provide a copy of the abstract of title showing such registration to the transferee;

(b) record the transferee as Co-owner.

Article 12.0 Books and Records

12.01 The Facilitator will keep or cause to be kept and maintained on behalf of the Co-owners at the Facilitator's principal place of business in Ontario:

(a) full and accurate books of account and records reflecting the receipts and expenditures relating to the Property; and

(b) a register of Co-owners.

12.02 The register of Co-owners shall record:

(a) The names of Co-owners being the registered title holders, from time to time, of the Property;

(b) The private unique identification number(s) of the UDI(s) held by a Co-owner;

(c) Country of residence of each Co-owner;

(d) Address, telephone number, facsimile number and email address of each Co-owner.

12.03 The documents kept by the Facilitator shall be available for inspection by Co-owners.

13.0 Amendments

13.01 This Deed may be amended in writing on the initiative of the Facilitator and by Special Resolution of the Co-owners Provided That such amendment is solely for the purpose of:

(a) curing an ambiguity or to correct or supplement any provision contained herein which, in the reasonable opinion of the Facilitator, may be defective or inconsistent with any other provision contained herein, and with respect to which the cure, correction or supplemental provision does not and will not substantially adversely affect the interests of the Co-owners or any one of them; or

(b) making such other provisions in regard to matters or questions arising under this Deed which, in the reasonable opinion of the Facilitator, do not and will not substantially adversely affect the interest of the Co-owners or any one of them.

14.0 Development of the Property

14.01 Any credible proposal to develop the Property received by the Facilitator from a developer (which developer may include the Vendor) which the Facilitator is of the reasonable opinion to be on normal commercial terms shall be presented to the Co-owners. If the Co-owners shall approve of such development proposal then the Facilitator shall be irrevocably entitled to proceed with such proposal, which shall form the basis of a development plan which shall be drawn up with the assistance of the Facilitator, subject to all such amendments as may generally be required to be made thereto, in the discretion of the Facilitator.

15.0 Sale of the Property

15.01 An offer (the "**Offer**") to purchase the Property received by the Facilitator, which the Facilitator deems credible and on normal commercial terms, shall be presented to the Co-owners for decision. If such offer to purchase is accepted by the Co-owners by Special Resolution, then such Resolution shall authorise and be deemed to have authorized the Facilitator to accept the Offer as agent of the Co-owners which acceptance shall be binding upon all of the Co-owners.

15.02 The Co-owners covenant that the Facilitator shall have the right to purchase, exercisable by notice in writing to the Co-owners, within 14 days after the Co-owners have passed a Resolution to accept the Offer, to purchase the Property on the same terms and conditions as the Offer. If the Facilitator fails to give such notice within 14 days then the Facilitator shall accept the Offer and complete the transaction in accordance therewith on behalf of the Co-owners.

16.0 HST and LTT

16.01 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and /or remittances relating to HST from funds provided by the Co-owner arising out of the purchase by each Co-owner from the Vendor of his respective UDI in the Property, as well as HST arising out of the management and operation of the Property. In executing the Purchase Agreement, each Co-owner has authorized the Vendor, on its behalf, to make a file, an election or elections jointly with the Vendor under subsection 273(1) of the *Excise Tax Act*.

For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator to carry out any HST reporting or filing obligations that are required or available to the Co-owners in respect of their Interests. Such authority shall include the execution of any documents that have to be or which may be advisable to be executed under the *Excise Tax Act*.

16.02 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and/or remittances, from funds provided by the Co-owner, relating to LTT arising out of the purchase by each Co-owner from the Vendor of his respective Interest in the Property. For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator on behalf of the Co-owner and with the Co-owner's funds to make any and all remittances and filings within the time period required therefor under the provisions of the *Land Transfer Tax Act* relating to LTT pursuant to the *Land Transfer Tax Act* required to be made by the Co-owner arising from the acquisition and/or ownership of the Interest.

Article 17.0 Indemnification

17.01 Each of the Co-owners agrees, severally and not jointly or jointly and severally, to indemnify and hold harmless the Facilitator from and against any and all demands, claims, actions, causes of action, losses, costs, expenses, liabilities and damages (including reasonable legal fees and disbursements) incurred by the Facilitator or by any one or more attorneys appointed by it or them under the power to substitute pursuant to a Power of Attorney granted to the Facilitator or by reason of acts, omissions or alleged acts or omissions arising out of the activities of the Facilitator on behalf of the Co-owners or in furtherance of the interest of the Co-owners but only if the acts, omissions or the alleged acts or omissions in respect of which any actual or threatened action, proceeding or claim are based, were performed in good faith and

were not performed or omitted fraudulently or as a result of wilful misconduct or the gross negligence of the Facilitator.

Article 18.0 Becoming a Co-owner

18.01 Each of the Co-owners agrees that, by his purchase of an UDI from the Vendor (regardless of whether he executed a counterpart of this Deed) and completion of his acquisition pursuant to the Purchase Agreement, he shall be deemed to be a Co-owner, and the provisions of this Deed shall constitute an agreement among the Vendor, such Co-owner and all other Co-owners from time to time. The Co-owners acknowledge and agree that the Vendor shall have the right, but not the obligation, to retain an Interest in the Property, to whatever extent it wishes from time to time, and the Vendor will therefore be a Co-owner to the extent that it retains any such Interest.

Article 19.0 Competing Interests

19.01 Each of the Co-owners and the Facilitator is enabled, without the consent of any of the others of them, to carry on any business activity of the same nature and competing with that of the Co-owners, and is not liable to account to any of the other of them.

Article 20.0 Notices

20.01 Any notice, communication or payment required or permitted to be given to the Co-owners or anyone of them or the Facilitator shall be in writing and may be given by personal delivery or sent by courier service (delivery charges prepaid) or by mailing to same to be addressed as follows:

(a) To the Facilitator at its respective mailing address;

(b) To each Co-owner at his last address shown on the records maintained by the Facilitator or transmitted by fax or electronically as a PDF file to the fax number or email address provided by the Facilitator or a Co-owner.

Any notice, communication or payment delivered as aforesaid shall be in the English language but may be accompanied by an unofficial translation and shall be deemed to have been given to the addressee on the day of delivery or, if mailed as aforesaid, shall be deemed to have been given to the addressee on fifth (5th) business day following the date of deposit thereof in the mail service, provided that, for such purposes, no day during which there shall be a strike or other occurrence which shall interfere with normal mail services shall be considered a business day. Accidental or inadvertent omission or failure to give any notice, communication or payment required or permitted to be given to any Co-owner shall not affect the validity or legality of any proceeding or action undertaken in respect thereof.

Any notice or communications transmitted by fax or electronic mail before 5:00 p.m. (Toronto Time) on a Business Day (being any day of the week, other than a Saturday, Sunday or a day that is a statutory holiday in Canada), shall be deemed to have been given on such Business Day, and if transmitted by fax or electronic mail after 5:00 p.m. (Toronto Time) on a Business Day, shall be deemed to have been given on the Business Day after the date of transmission.

Article 21.0 Further Acts

21.01 The Co-owners covenant and agree to execute and deliver such further and other documents and to perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Deed and every part hereof.

Article 22.0 Binding Effect

22.01 Subject to the restrictions on assignment and transfer herein contained, this Deed shall ensure to the benefit of and be binding upon the Co-owners and their respective heirs, executors, administrators and other legal representatives, successors-in-title, assigns and transferees.

Article 23.0 Severability

23.01 Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

Article 24.0 Counterparts

24.01 This Agreement may be executed in any number of counterparts, by original or facsimile signature, with the same affect as if all parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one and the same agreement.

Article 25.0 Reference Date

25.01 This Agreement is dated for reference purposes as of the date of signature on the signature page.

Article 26.0 Time

26.01 Time shall be of the essence hereof.

Article 27.0 Governing Law

27.01 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, in the Country of Canada and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the Province of Ontario, in the Country of Canada.

Article 28.0 No Intention to Create a Partnership

28.01 The Co-owners acknowledge, agree and declare that the entering into of this Agreement does not, and is not intended to, create a partnership, for either legal, income tax, accounting or other purposes. The Co-owners further declare nothing herein is to be construed as a limitation of the powers or rights of any Co-owner to carry on its separate respective activities. Except for the Facilitator as contemplated in this Agreement, none of the Co-owners shall have the right to bind any of the other Co-owners, transact any business in any of the other Co-owners' names or on their behalf or incur any liability for or on behalf of any of the other Co-owners. The Co-owners agree that they shall each report their income or loss arising from the ownership of their Interests, for both accounting and income tax purposes, and to the applicable taxing authorities, as co-ventures independent of one another, and not as partners in a partnership.

Article 29.0 Termination

29.01 This Deed shall remain in full force and effect until the title to the Property is transferred to one registered owner (the "**Sole Owner**") and thereafter shall continue to be binding on those Co-owners who transferred their title to the Sole Owner until all monies (including the balance of the Concept Planning Fund, if any and sales proceeds) are distributed by the Facilitator proportionately to the Co-owners.

Article 30.0 Entire Agreement

30.01 This Deed, sets forth the entire understanding of the Parties relating to the subject matter thereof, and all prior or contemporaneous understandings, agreements, representations and warranties, whether written or oral, are superseded by this Deed, and all such prior or contemporaneous understandings, agreements, representations and warranties are hereby terminated.

APPENDIX "I"

UDI UIN: MHR-1234,MHR-1235,MHR-1236

MEAFORD HIGHLANDS RESORT

DEED OF COVENANT

This Deed of Covenant

1. **MEAFORD A2A DEVELOPMENTS INC.**, a corporation incorporated in the Province of Ontario, Canada with its registered office at 250 Ferrand Drive Suite 888, Toronto Ontario M3C 3G8, Canada (the "**Vendor**") who holds registered title to the Property who has divided ownership of the Property into 2280 undivided fractional interests in the Property more particularly described in Schedule 1 below for itself and for its successors-in-title, transferees and assigns; and

2. [redacted]

(the "**Purchaser**") who has purchased from the Vendor _____ undivided fractional interest as tenants-in-common in the property more particularly described in Schedule 1 hereto (the "**Property**").

WHEREAS as a condition of sale the Vendor requires the Purchaser to provide certain covenants to and for the benefit of the Vendor and for all others, who may become Co-owners of the Property as tenants-in-common which covenants shall be binding on the Purchaser's heirs, executors, administrators, successors-in-title, transferees and assigns and the Vendor and the Vendor's successors-in-title, transferees and assigns and which shall run with and burden the Purchaser's and every other Undivided Fractional Interest in the Property ("**UDI**").

AND WHEREAS it is the intention of the Vendor to continue to sell its interest in the Property and at its absolute and unfettered discretion, to exercise its right but not the obligation to retain up to 5% legal and beneficial interest in the Property and thus remain a Co-owner with all the rights accruing thereto.

AND WHEREAS it is the intention of the parties that every Co-owner of the Property, from time to time shall be bound by this Deed of Covenant.

NOW THE PARTIES for themselves, their heirs, executors, administrators, successors-in-title, transferees and assigns covenant as follows:

Article 1.0 Definitions and Interpretation

1.01 For the purposes of this Deed, the following terms shall be deemed to have the following meanings unless the context otherwise requires:

"**Co-owners**" are owners whether having registered title or only a beneficial interest, from time to time, of the undivided tenant-in-common interest in the Property and for the purpose of clarity only, includes the Vendor so long as the Vendor remains a registered or beneficial owner of any Undivided Fractional Interest in the Property and "Co-owner" means any one of them;

"**Concept Planning Fund**" means the account or accounts to be opened by the Facilitator under Article 3.01(a);

"**CRA**" means the Canadian Revenue Agency;

"**Excise Tax Act**" means the Excise *Tax Act (Canada),* as amended from time to time, including the regulations made pursuant thereto;

"**Facilitator**" means any person or entity, corporate or un-incorporate, who is appointed from time to time under Article 2.02 by the Co-owners to be their facilitator pursuant to this Deed;

"**General Meeting**" means a meeting of Co-owners called in accordance with this Deed;

"**HST**" means Harmonized Sales Tax under the *Excise Tax Act, Canada*;

"**Income Tax Act**" means the *Income Tax Act, R.S.C. 1985, c.1 (5th Supp.),* as amended from time to time, including the regulations made pursuant thereto;

"**Land Transfer Tax Act**" means the *Land Transfer Tax Act, R.S.O. c.L.6,* as amended;

"**LTT**" means the land transfer tax payable pursuant to the *Land Transfer Tax Act;*

"**Net Income**" shall have the meaning attributed thereto in article 3.0(j);

"**Ordinary Resolution**" means a resolution approved by more than 50% of votes cast in person or by proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding, in the aggregate more than 50% of the UDIs in the Property;

"**Planning Activities**" means the reports, plans, studies, audits, assessments, investigations, legal proceedings, procedures, filings, submissions, applications and/or other actions taken or made in respect of or in furtherance of the rezoning or other land use matters related to the Property;

"**Property**" means the real property legally described on Schedule 1 annexed hereto;

"**Purchase Agreement**" means the form of agreement of purchase and sale entered into among the Vendor, as vendor, and each Co-owner (other than the Vendor), as purchaser, pursuant to which each Co-owner agreed to acquire its respective UDI;

"**Special Resolution**" means a resolution approved by 66.6% or more of votes cast in person or proxy at a duly constituted meeting of Co-owners or any written resolution signed in one or more counterparts by Co-owners holding in the aggregate 66.6% or more of the UDIs in the Property;

"**Undivided Fractional Interest**" or "**UDI**" or **"Interest"** means an undivided fractional interest, as tenants-in-common, in the Property and each UDI comprises a 1/2280 fractional interest in the Property;

1.02 In the interpretation of this Deed, unless the context otherwise requires:

(a) the division of this Deed into Articles, paragraphs, subparagraphs, schedules and appendices and the insertion of headings are provided for convenience only and do not form a part of this Deed nor are they intended to interpret, define or limit the scope, extent or intent of this Deed or any provision hereof;

(b) all references to decisions, directions, instructions or approvals of the Co-owners refer to such decisions made or directions, instructions or approvals given by Co-owners by Ordinary or Special resolutions;

(c) all references to currency herein are references to lawful money of Canada;

(d) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and in force from time to time and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made-pursuant thereto;

(e) any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(f) words importing the masculine gender include the feminine or neuter genders and words in the singular include the plural and vice versa; and

(g) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case requires and the verb shall be construed as agreeing with required word and pronoun.

Article 2.0 Organization

2.01 The Co-owners shall manage the Property and the Facilitator shall carry out the instructions and directions of the Co-owners made in accordance with this Deed. In carrying out the instructions of Co-owners, the Facilitator, as may be appointed or changed by the Co-owners from time to time in the manner provided herein, shall have the power and authority to administer the Property as attorney and agent of the Co-owners.

2.02 The first Facilitator shall be the Vendor. The Co-owners may by Ordinary Resolution from time to time appoint another to be the Facilitator.

2.03 The Facilitator shall:

(a) ensure that every person who is to become or becomes a registered title holder or owner of a beneficial interest,of an UDI shall be bound by the covenants contained herein;

(b) take steps to convene the first general meeting of the Co-owners as soon as feasible following the sale of the 2166th UDI in the Property by the Vendor;

(c) Implement the decisions and instructions of the Co-owners.

Article 3.0 Specific Powers of the Facilitator

3.01 Subject to specific other contrary directions and instructions of the Co-owners passed by Ordinary Resolution, the Co-owners hereby acknowledge and agree that the Facilitator is authorized at all times for and on behalf of the Co-owners:

(a) To maintain and operate one or more bank accounts opened with a Canadian chartered bank in the name of the Facilitator. The Facilitator shall deposit therein, the Vendor's contribution of 5.0% of the sales proceeds derived from the sale of UDIs and all rentals and other income that may be earned from the Property (the "**Concept Planning Fund**").

All expenses properly relating to the Property including, without limitation, cost of any Planning Activities, shall be paid by the Facilitator from the monies in such account to the extent of funds available therein.

(b) To execute, deliver and carry out all agreements which require implementation, delivery or execution by or on behalf of the Co-owners in connection with the Property, including without limitation, development agreements, site plan agreements, easements and rights of way.

(c) To enter into a lease and/or tenancy arrangement in respect of the Property and to collect all rentals and other income therefrom, provided that nothing herein shall constitute a guarantee by the Facilitator of the payment of any rent by tenants.

(d) To pay at the cost of the Co-owners all realty taxes, fees and other expenses relating to the orderly maintenance and management of the Property out of the Concept Planning Fund to the extent therein available, provided that nothing therein shall be construed as a guarantee by the Facilitator of the sufficiency of funds to cover all such expenses.

(e) To commence or to defend on behalf of the Co-owners at the cost and expense of the Co-owners, or itself or former Facilitator any and all actions and other proceedings pertaining to the Property or to the Co-owners.

(f) To determine the amount and type of insurance coverage, if any, to be maintained in order to protect the Property and the Co-owners from all usual perils of the type covered in respect of comparable properties.

(g) To employ and pay and discharge on behalf of the Co-owners and at the cost of the Co-owners, all servants, employees or contractors necessary to be employed in the management and operation of the Property and the Planning Activities.

(h) To contract on behalf of the Co-owners and at the cost of the Co-owners for water, gas, electricity and other services and commodities necessary for the operation and maintenance of the Property.

(i) To distribute proportionately amongst the Co-owners according to their respective share the net proceeds arising from a sale by the Co-owners of the Property, after payment of all expenses.

(j) To distribute the Net Income from the ownership, operation, use, and/or sale of the Property (if any) to each Co-owner, proportionate to his respective UDI. For the purposes of this Agreement, "**Net Income**" shall mean the gross receipts (which, for greater certainty, shall not include the Concept Planning Fund) derived in any way from dealing with the Property, received by or on behalf of the Co-owners from the ownership, operation, use, leasing, sale of, and/or development and/or any other dealing with of the Property, minus the aggregate of all proper expenses and charges incurred in connection therewith, calculated on an accrual basis, including, without limitation:

(i) realty taxes, property tax assessments, charges or levies made by any duly constituted governmental or statutory authority, due and owing and secured by a right or apparent right to claim a lien or charge upon the UDIs, or any of them, or the Property, and money due and owing from improvements to the Property secured by a lien or charge in favour of materialmen or workmen or trade contractors or other like persons or corporations upon the Interests, or any of them, or the Property;

(ii) all costs and expenses of any sale;

(iii) all development and re-zoning costs and expenses;

(iv) all costs and expenses of operating, maintaining, leasing, managing, using, and/or developing the Property, and the costs and expenses of repair;

(v) lighting, electricity and public utilities costs and expenses;

(vi) professional fees reasonably attributed to the Property, its operation, use, sale, re-zoning and/or development;

(vii) all other costs, expenses or disbursements which are properly attributable to the Property, except payments to the Co-owners on account of capital or distribution of Net Income; and

(viii) reserves in such amount as deemed appropriate by the Facilitator from time to time, including without limitation for the purposes of replacement of major equipment, major renovations and repairs, leasehold improvements, marketing costs and any other reserves normally required for the prudent operation, use, sale and/or development of a like property.

Article 4.0 Covenants of the Co-owners

4.01 The Co-owners covenant with each other as follows:

(a) That each Co-owner shall have a proportionate beneficial interest in all gross cash receipts derived from the Property to the extent of each Co-owner's UDI;

(b) To be responsible for his proportionate interest of the expenses and charges incurred in connection with the Property, in each case proportionate to his respective UDI and when called upon to contribute a fair and rateable proportion of the costs of maintaining the Property;

(c) To waive all individual rights of possession, use, occupation and rights of access to the Property and any part thereof and to exercise such rights collectively only; in order to facilitate the future re-zoning and ultimate development of the Property for the benefit of all Co-owners collectively;

(d) To comply with the *Planning Act (Ontario),* as amended from time to time; and

(e) To require every person to whom he may hereafter transfer his UDI to covenant to observe this Deed of Covenant.

Article 5.0 Loans from Facilitator

5.01 The Facilitator may, in its discretion, but shall not be under any obligation, lend money to the Co-owners, upon such terms and conditions as are acceptable to the Facilitator and the Co-owners, for the purposes relating to the maintenance or re-zoning of the Property. The terms and conditions of any such loan shall be approved by the Co-owners by Special Resolution and the Facilitator shall be entitled to repay itself out of the sales proceeds arising from the sale of the Property. If a Facilitator has made such an advance or advances, it shall be a condition of any such loan that the Facilitator shall have priority of re-payment of principal and interest over any claim of Co-owners to the balance of the Concept Planning Fund, Net Income balances or sale proceeds arising from sale of the Property.

Article 6.0 Authority of the Facilitator

6.01 No person dealing with the Facilitator will be required to enquire into the authority of the Facilitator to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf or in the name of the Co-owners.

6.02 The Facilitator is authorized to withhold any amounts required to be withheld from any distribution or other payment to a Co-owner pursuant to the provisions of the *Income Tax Act* and to make payment of any such amount on behalf of such Co-owner to the CRA, as may be required by law.

7.0 General Meetings

7.01 The first General Meeting of Co-owners shall be held as soon as feasible upon the sale by the Vendor of the 2166th UDI and thereafter general meetings of Co-owners shall be held as often as is necessary when decisions or instructions are required from Co-owners for management of the Property or when Co-owners representing 15% or more of the total UDIs requisition for a meeting.

7.02 The Facilitator may by written notice substantially in the form annexed hereto as Schedule 2 (the "**Notice Requisitioning an Ordinary Resolution**") call for a general meeting of the Co-owners and any Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may by written notice to the Facilitator requisition a general meeting using the form annexed hereto in Schedule 2. The forms in Schedule 2 are for the convenience of Co-owners and the Facilitator only. If the Facilitator fails to call a general meeting upon requisition by Co-owners to do so, then in such event, a Co-owner or Co-owners together holding an aggregate interest of 15% or more in the Property may deliver to the other Co-owners written notice of general meeting, stating therein the time and venue for the meeting which shall be in Ontario, Canada.

7.03 The Facilitator shall provide all Co-owners 14 days written notice of the first General Meeting and such notice include in the agenda:

(i) a resolution for the confirmation of appointment of the Facilitator;

(ii) recommended decisions and instructions as may be appropriate for the leasing, rental and/or re-zoning of the Property and/or undertaking Planning Activities; and

(iii) recommendation for the appointment or confirmation of appointment of professional advisers and consultants for the management of the Property and to carry out Planning Activities.

7.04 Not less than 14 days written notice shall be given for all general meetings and each notice shall be accompanied by an agenda setting out the matters to be placed before the Co-owners and the resolutions for their consideration and if thought fit, approval. Each agenda shall be accompanied by supporting materials, if any, sufficiently detailed to inform Co-owners of the matters to be considered at the meeting. Any notice which does not comply with this Article shall be void.

7.05 The venue of all general meetings including the first General Meeting shall be in Ontario, Canada to be determined by the Facilitator save and except for a meeting called by one or more Co-owners under Article 7.02 upon the failure of the Facilitator to comply with a requisition for a meeting.

7.06 Upon receipt of a Notice of a General Meeting, any two Co-owners may, with one proposing and the other seconding, put forth additional or alternative resolutions for the consideration and if thought fit, approval of other Co-owners together with supporting materials. Any such proposal shall reach the Facilitator not less than 7 days before the date of meeting and the Facilitator shall forthwith put such resolutions to the Co-owners for consideration.

7.07 Notices of meeting, agenda and other materials and minutes of meeting shall be sent by the Facilitator to Co-owners by electronic transmission.

7.08 Co-owners shall have one vote for each UDI and may attend a meeting in person, by corporate representative if a corporation or by proxy. Co-owners may appoint the Facilitator as proxy and direct the Facilitator how to vote and the Facilitator shall act according to such directions.

7.09 The Facilitator shall chair, and if the Facilitator is a corporation, a director of the Facilitator shall chair the meeting unless the Co-owners by Ordinary Resolution appoint one of their numbers to chair the meeting.

7.10 All resolutions except where a Special Resolution is expressly required hereunder shall be passed by Ordinary Resolution. Matters not referred to in the agenda of a general meeting shall not be voted on at that meeting. Any resolution passed by Ordinary Resolution, except where a Special Resolution is expressly required hereunder, shall be binding on all Co-owners, their respective heirs, executors,

administrators, successors-in-title, assigns and transferees, whether or not any such Co-owner was present in person or by proxy or voted against any such resolution.

7.11 The Facilitator shall, and failing the Facilitator, the Co-owners shall appoint a Secretary to keep complete and accurate minutes of all meetings of Co-owners and the minutes of meetings shall be signed by the Chairman of the meeting and be prima facie evidence of the facts stated therein.

7.12 The minutes of each meeting shall be sent to each Co-owner within 30 days after the meeting. Any failure to send the minutes of a meeting shall not affect the validity of any decisions made at the meeting.

Article 8.0 Matters Exercisable Only By Ordinary Resolution

8.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by way of Ordinary Resolution:

(a) approving a proposal or plan to re-zone, develop and/or build structures on the Property;

(b) subject to Article 13 consenting to the amendment of this Deed, provided that, no amendment to this Deed shall impose or increase any financial or other obligations upon any of the Facilitator, or in any way adversely affect the Facilitator, without the prior written approval of the Facilitator and which approval may be denied without the Facilitator having to give any reasons therefor;

(c) appointment and confirmation of a firm of chartered accountants qualifed to practice in Canada to prepare the financial statements for the Property and any activities carried on with respect to the Property; and

(d) any matter relating to management of and dealings in the Property.

Article 9.0 Matters Exercisable Only By Special Resolution

9.01 Notwithstanding anything to the contrary contained in this Deed, the following shall always require a decision of the Co-owners by the way of Special Resolution:

(a) Approving the sale or exchange of all or any part of the Property not being the sale of a UDI by the Vendor or other Co-owners; provided that, no such sale by such Co-owners shall include an interest in the Property of any other Co-

Owner. For greater certainty nothing in this Deed shall prohibit the Vendor or other Co-owner from selling an UDI of which he is the registered owner and under conditions that the assignee or transferee shall be bound by this Deed;

(b) Approving or ratifying the making of an loan or advance by the Facilitator under Article 5.0;

(c) Amendments under Article 13 below.

Article 10.0 Change of Facilitator

10.01 The Co-owners may by Ordinary Resolution terminate and remove the Facilitator (in its capacity as Facilitator and not as a Co-owner) and appoint a new Facilitator in its place and stead. Such new Facilitator shall be bound by all of the terms of this Deed and shall by a deed of adherance confirm that it is bound under this Deed as if it was an original signatory thereto. Upon termination, the Facilitator terminated shall forthwith upon request of the person designated in the resolution as the replacement Facilitator (the "**Designated Person**") do the following:

(a) deliver all agreements, documents, instruments, books and records and writings relating to the Property in its possession to the Designated Person, including, without limitation, the register of Co-owners;

(b) execute and deliver such consents, acknowledgements and assignments pertaining to the Property and any Planning Activities as the Designated Person may require;

(c) deliver the bank account or accounts containing the Concept Planning Fund to the control of the Designated Person;

(d) execute and deliver a release in form and content satisfactory to the Designated Person, acting reasonably, releasing the Co-owners from any liability, provided that:

(i) the release by the Facilitator shall not release the Co-owners from their obligation to continue to indemnify the Facilitator pursuant to Article 17 hereof; and (ii) the Facilitator receives a release in form and content satisfactory to the Facilitator, acting reasonably, executed by the Designated Person, authorised to so do on the Co-owners behalf by resolution in general meeting releasing the Facilitator from any liability with respect to the Property and the Co-owners which resolution shall expressly acknowledge and agree that the Designated Person shall have the power and authority to deliver such release, without any further approval or authorization required from the Co-owners;

(e) do all things necessary and execute all necessary documents and otherwise co-operate and assist to carrying out and giving effect to each of the actions set out above.

Article 11.0 Transfers of Interest

11.01 No Co-owner shall sell, transfer, mortgage or otherwise encumber or dispose of his UDI in the Property, except in accordance with the provisions of this Agreement. The Facilitator shall record the names and address of the Co-owners, the UDIs held by each Co-owner and each UDI's private unique identification number and particulars of transfers of Interests.

11.02 UDIs may be assigned and transferred by a Co-owner or his agent duly authorized in writing if the following conditions are satisfied:

(a) the transferor and transferee have delivered to the Facilitator in the case of a co-owner with registered title, a copy of an executed assignment and a copy of an executed acknowledgement and direction authorizing registration of the transfer /deed of title to the transferee or in the case of the transfer of a beneficial interest a copy of an executed transfer of beneficial interest;

(b) the transferee has agreed in writing in such form as may be acceptable to the Facilitator, to be bound by the terms of this Deed, to assume the obligations of the transferring Co-owner under this Deed in respect of the UDI being assigned and transferred to him and have signed all instruments ancillary to this Deed;

(c) the transferee delivers, or causes to be delivered to the Facilitator the form of Acknowledgement and Direction provided by the Facilitator, duly executed by the transferor and transferee authorizing the Ontario lawyers named therein to transfer title to the UDI being assigned and transferred, together with two picture identifications of each of the transferee and transferor duly notarized acceptable to such lawyer and in the case of the transferee of a beneficial interest, the transferee will not be required to deliver or cause to be delivered the aforesaid form of Acknowledgement and Direction;

(d) the transferee pays such costs, expenses and disbursements, including legal fees as are reasonably incurred by the Facilitator by reason of the assignment and transfer and registration of the transferee as registered owner;

(e) the transferee pays all applicable HST pursuant to the *Excise Tax Act*, and all applicable LTT pursuant to the *Land Transfer Tax Act*, and makes any and all necessary filings and remittances within the time periods required therefor under the provisions of the *Excise Tax Act* and the *Land Transfer Tax Act* and the respective regulations thereunder;

(f) the transferring Co-owner shall either provide the transferee with evidence reasonably satisfactory to the transferee that the transferring Co-owner is then a "**non-resident**" of Canada within the meaning of the *Income Tax Act (Canada)* or provide the transferee with a certificate pursuant to *subsection 116(2) of the Income Tax Act (Canada)* with a certificate limit in an amount not less than the purchase price for the Undivided Interest being assigned and transferred; provided that if such evidence or certificate is not forthcoming, the transferee shall be entitled to make the payment of tax required under section *116 of the Income Tax Act (Canada)* and to deduct such payment from the purchase price for the UDI being assigned and transferred;

11.03 When a transferee of an Interest is entitled to become a Co-owner pursuant to the provisions hereof, the Facilitator will:

(a) if the transferee is registered on title, cause to be registered with the relevant land registry a transfer of title to the UDI being transferred and provide a copy of the abstract of title showing such registration to the transferee;

(b) record the transferee as Co-owner.

Article 12.0 Books and Records

12.01 The Facilitator will keep or cause to be kept and maintained on behalf of the Co-owners at the Facilitator's principal place of business in Ontario:

(a) full and accurate books of account and records reflecting the receipts and expenditures relating to the Property; and

(b) a register of Co-owners.

12.02 The register of Co-owners shall record:

(a) The names of Co-owners being the registered title holders, from time to time, of the Property;

(b) The private unique identification number(s) of the UDI(s) held by a Co-owner;

(c) Country of residence of each Co-owner;

(d) Address, telephone number, facsimile number and email address of each Co-owner.

12.03 The documents kept by the Facilitator shall be available for inspection by Co-owners.

13.0 Amendments

13.01 This Deed may be amended in writing on the initiative of the Facilitator and by Special Resolution of the Co-owners Provided That such amendment is solely for the purpose of:

(a) curing an ambiguity or to correct or supplement any provision contained herein which, in the reasonable opinion of the Facilitator, may be defective or inconsistent with any other provision contained herein, and with respect to which the cure, correction or supplemental provision does not and will not substantially adversely affect the interests of the Co-owners or any one of them; or

(b) making such other provisions in regard to matters or questions arising under this Deed which, in the reasonable opinion of the Facilitator, do not and will not substantially adversely affect the interest of the Co-owners or any one of them.

14.0 Development of the Property

14.01 Any credible proposal to develop the Property received by the Facilitator from a developer (which developer may include the Vendor) which the Facilitator is of the reasonable opinion to be on normal commercial terms shall be presented to the Co-owners. If the Co-owners shall approve of such development proposal then the Facilitator shall be irrevocably entitled to proceed with such proposal, which shall form the basis of a development plan which shall be drawn up with the assistance of the Facilitator, subject to all such amendments as may generally be required to be made thereto, in the discretion of the Facilitator.

15.0 Sale of the Property

15.01 An offer (the "**Offer**") to purchase the Property received by the Facilitator, which the Facilitator deems credible and on normal commercial terms, shall be presented to the Co-owners for decision. If such offer to purchase is accepted by the Co-owners by Special Resolution, then such Resolution shall authorise and be deemed to have authorized the Facilitator to accept the Offer as agent of the Co-owners which acceptance shall be binding upon all of the Co-owners.

15.02 The Co-owners covenant that the Facilitator shall have the right to purchase, exercisable by notice in writing to the Co-owners, within 14 days after the Co-owners have passed a Resolution to accept the Offer, to purchase the Property on the same terms and conditions as the Offer. If the Facilitator fails to give such notice within 14 days then the Facilitator shall accept the Offer and complete the transaction in accordance therewith on behalf of the Co-owners.

16.0 HST and LTT

16.01 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and /or remittances relating to HST from funds provided by the Co-owner arising out of the purchase by each Co-owner from the Vendor of his respective UDI in the Property, as well as HST arising out of the management and operation of the Property. In executing the Purchase Agreement, each Co-owner has authorized the Vendor, on its behalf, to make a file, an election or elections jointly with the Vendor under subsection 273(1) of the *Excise Tax Act.*

For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator to carry out any HST reporting or filing obligations that are required or available to the Co-owners in respect of their Interests. Such authority shall include the execution of any documents that have to be or which may be advisable to be executed under the *Excise Tax Act*.

16.02 Each of the Co-owners hereby authorizes the Facilitator to make any and all filings and/or remittances, from funds provided by the Co-owner, relating to LTT arising out of the purchase by each Co-owner from the Vendor of his respective Interest in the Property. For purposes of greater certainty, each of the Co-owners hereby authorizes the Facilitator on behalf of the Co-owner and with the Co-owner's funds to make any and all remittances and filings within the time period required therefor under the provisions of the *Land Transfer Tax Act* relating to LTT pursuant to the *Land Transfer Tax Act* required to be made by the Co-owner arising from the acquisition and/or ownership of the Interest.

Article 17.0 Indemnification

17.01 Each of the Co-owners agrees, severally and not jointly or jointly and severally, to indemnify and hold harmless the Facilitator from and against any and all demands, claims, actions, causes of action, losses, costs, expenses, liabilities and damages (including reasonable legal fees and disbursements) incurred by the Facilitator or by any one or more attorneys appointed by it or them under the power to substitute pursuant to a Power of Attorney granted to the Facilitator or by reason of acts, omissions or alleged acts or omissions arising out of the activities of the Facilitator on behalf of the Co-owners or in furtherance of the interest of the Co-owners but only if the acts, omissions or the alleged acts or omissions in respect of which any actual or threatened action, proceeding or claim are based, were performed in good faith and were not performed or omitted fraudulently or as a result of wilful misconduct or the gross negligence of the Facilitator.

Article 18.0 Becoming a Co-owner

18.01 Each of the Co-owners agrees that, by his purchase of an UDI from the Vendor (regardless of whether he executed a counterpart of this Deed) and completion of his acquisition pursuant to the Purchase Agreement, he shall be deemed to be a Co-owner, and the provisions of this Deed shall constitute an agreement among the Vendor, such Co-owner and all other Co-owners from time to time. The Co-owners acknowledge and agree that the Vendor shall have the right, but not the obligation, to retain an Interest in the Property, to whatever extent it wishes from time to time, and the Vendor will therefore be a Co-owner to the extent that it retains any such Interest.

Article 19.0 Competing Interests

19.01 Each of the Co-owners and the Facilitator is enabled, without the consent of any of the others of them, to carry on any business activity of the same nature and competing with that of the Co-owners, and is not liable to account to any of the other of them.

Article 20.0 Notices

20.01 Any notice, communication or payment required or permitted to be given to the Co-owners or anyone of them or the Facilitator shall be in writing and may be given by personal delivery or sent by courier service (delivery charges prepaid) or by mailing to same to be addressed as follows:

(a) To the Facilitator at its respective mailing address;

(b) To each Co-owner at his last address shown on the records maintained by the Facilitator or transmitted by fax or electronically as a PDF file to the fax number or email address provided by the Facilitator or a Co-owner.

Any notice, communication or payment delivered as aforesaid shall be in the English language but may be accompanied by an unofficial translation and shall be deemed to have been given to the addressee on the day of delivery or, if mailed as aforesaid, shall be deemed to have been given to the addressee on fifth (5th) business day following the date of deposit thereof in the mail service, provided that, for such purposes, no day during which there shall be a strike or other occurrence which shall interfere with normal mail services shall be considered a business day. Accidental or inadvertent omission or failure to give any notice, communication or payment required or permitted to be given to any Co-owner shall not affect the validity or legality of any proceeding or action undertaken in respect thereof.

Any notice or communications transmitted by fax or electronic mail before 5:00 p.m. (Toronto Time) on a Business Day (being any day of the week, other than a Saturday, Sunday or a day that is a statutory holiday in Canada), shall be deemed to have been given on such Business Day, and if transmitted by fax or electronic mail after 5:00 p.m. (Toronto Time) on a Business Day, shall be deemed to have been given on the Business Day after the date of transmission.

Article 21.0 Further Acts

21.01 The Co-owners covenant and agree to execute and deliver such further and other documents and to perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Deed and every part hereof.

Article 22.0 Binding Effect

22.01 Subject to the restrictions on assignment and transfer herein contained, this Deed shall enure to the benefit of and be binding upon the Co-owners and their respective heirs, executors, administrators and other legal representatives, successors-in-title, assigns and transferees.

Article 23.0 Severability

23.01 Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

Article 24.0 Counterparts

24.01 This Agreement may be executed in any number of counterparts, by original or facsimile signature, with the same affect as if all parties hereto had signed the same document. All counterparts shall be construed together and shall constitute one and the same agreement.

Article 25.0 Reference Date

25.01 This Agreement is dated for reference purposes as of the date of signature on the signature page.

Article 26.0 Time

26.01 Time shall be of the essence hereof.

Article 27.0 Governing Law

27.01 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, in the Country of Canada and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the Province of Ontario, in the Country of Canada.

Article 28.0 No Intention to Create a Partnership

28.01 The Co-owners acknowledge, agree and declare that the entering into of this Agreement does not, and is not intended to, create a partnership, for either legal, income tax, accounting or other purposes. The Co-owners further declare nothing herein is to be construed as a limitation of the powers or rights of any Co-owner to carry on its separate respective activities. Except for the Facilitator as contemplated in this Agreement, none of the Co-owners shall have the right to bind any of the other Co-owners, transact any business in any of the other Co-owners' names or on their behalf or incur any liability for or on behalf of any of the other Co-owners. The Co-owners agree that they shall each report their income or loss arising from the ownership of their Interests, for both accounting and income tax purposes, and to the applicable taxing authorities, as co-ventures independent of one another, and not as partners in a partnership.

Article 29.0 Termination

29.01 This Deed shall remain in full force and effect until the title to the Property is transferred to one registered owner (the "**Sole Owner**") and thereafter shall continue to be binding on those Co-owners who transferred their title to the Sole Owner until all monies (including the balance of the Concept Planning Fund, if any and sales proceeds) are distributed by the Facilitator proportionately to the Co-owners.

Article 30.0 Entire Agreement

30.01 This Deed, sets forth the entire understanding of the Parties relating to the subject matter thereof, and all prior or contemporaneous understandings, agreements, representations and warranties, whether written or oral, are superseded by this Deed, and all such prior or contemporaneous understandings, agreements, representations and warranties are hereby terminated.

APPENDIX "J"

LEGAL TITLE OWNERSHIP:
UFI UIN: AMP-0007,AMP-0008

POWER OF ATTORNEY

I, [redacted] :

[redacted]

of [redacted] R

[redacted]

HEREBY APPOINT **ANGUS MANOR PARK A2A DEVELOPMENTS INC.** a company incorporated in the Province of Ontario, Canada with its registered office at 250 Ferrand Drive Suite 888, Toronto Ontario M3C 3G8, Canada or any duly authorized representative of the said **ANGUS MANOR PARK A2A DEVELOPMENTS INC.** as may be appointed and authorized by its Board of Directors as my attorney for my interest in the Property described in the Schedule hereto ("UFI") in accordance with the *Powers of Attorney Act, Ontario* and to do on my behalf anything that I can lawfully do by an attorney and with authority to act for me and in my name, place and stead, on my behalf to convey, sell, transfer, assign, lease, or to otherwise deal in any way whatsoever with my interest in the Property or any part thereof and without limiting the generality of the foregoing to perform any or all of the following acts and things, to wit:

i. Execute and deliver such instruments and documents in my name as co-owner of the Property, as the Attorney may deem necessary;

ii. Execute, swear to, acknowledge, deliver, file and/or remit such Land Transfer Tax and all other returns and payments, remittances in connection with my acquisition of the UFI;

iii. Execute, acknowledge, deliver and file and/or remit to the Canada Revenue Agency, all necessary documents, instruments, declarations, certificates and other documents relating to Harmonized Sales Tax and other such taxes thereof and to execute, deliver and file such non-personal income tax returns;

iv. To receive from all persons all moneys at any time due in any way in connection with the UFI and to give good and valid discharge therefor;

v. To insure the UFI and the Property against any type of risk and to surrender any policy;

vi. To institute and defend any action, to examine and settle, adjust, compound all actions and accounts, demands and disputes whatsoever in connection with the Property;

vii. To grant, vary the terms of, accept, surrender and/or determine leases, tenancies and licenses;

viii. To take possession of the same and to take every manner of steps for the eviction of persons therefrom;

ix. To convey, transfer, assign and dispose of my interest in the Property or any part thereof in accordance with the terms and conditions in the Deed of Covenant and to negotiate, execute and deliver any and all documents with respect to or required to give effect to the conveyance, sale or transfer or assignment of my UFI as tenant in common in the Property or any part thereof or my interest in the Property or any part thereof and to enter and sign such agreements, acknowledgements, directions, Sale and Purchase Agreement, Option to Sell, Deed of Assignments, Transfer Document or any document required to be provided by or in any of the foregoing, and take all steps and do all that may be necessary to complete the transaction contemplated therein;

x. Execute, deliver, convey, enter into agreements, documents and other instruments pertaining to the zoning, rezoning, severance, development, re-development of the Property or any part thereof and to release any and all possessory and proprietary rights as to the Property or any part thereof as may be deemed necessary;

xi. Negotiate, execute all documents and submit planning applications to appropriate authorities and making any appeals or attending to all such related matters arising, so as to facilitate the concept planning activities to fruition and pre-development status;

xii. To grant such easements, rights of way, restrictions, in, on, over, under or in regards to the Property or any part thereof as may be deemed appropriate by my attorney;

xiii. To sell or otherwise transfer the UFI, upon approval for Re-Sale, including the execution of any documents to effect such Re-Sale or transfer of the UFI.

I agree that any third party who receives a copy of this document may act under it. Revocation of this Power of Attorney is not effective as to a third party until the instrument of revocation is filed on record in Ontario if required and the third party receives actual notice of revocation. I agree to indemnify the third party for any claims that may arise against the third party by reason of reliance on this Power of Attorney.

I, as the owner of the UFI, hereby confirm that this Power of Attorney granted herein shall, to the extent permitted by the laws applicable in Ontario, survive my death, incapacity, disability or any assignment made hereof and shall to the extent of the obligations granted hereunder bind all my/our heirs, successors and assigns.

In accordance with the *Powers of Attorney Act*, Ontario, I declare that this is a continuing power of attorney and may be exercised during any subsequent legal incapacity on my part.

In making this continuing power of attorney, I am aware that my attorney will be able to do on my behalf anything in respect of Property that I could do, that the value of my property administered by my attorney may decline unless my attorney manages it prudently.

I shall grant to the Attorney full powers and authority to substitute and appoint, from time to time, an Attorney or Attorneys under it, with equal or more limited powers and Authority, as the Donee may deem fit, and to appoint, remove or substitute at its pleasure.

I shall allow, ratify and confirm whatsoever the said Attorney or Attorneys and its substitutes shall do or cause to be done in relation to the UFI and any matters therein performed or made and to indemnify and save harmless the Attorney against all cost, claims, expenses and reasonable solicitors costs that may be incurred by my Attorney in connection with carrying out the powers and authority herein granted.

I have signed this power of attorney in the presence of both of the witnesses whose names appear below.

I HAVE SIGNED THIS POWER OF ATTORNEY ON the 25 day of APRIL ,2013

SIGNATURE OF PURCHASER

[redacted]:
[redacted]

[redacted] Special Power of Attorney dated the day of ,2013

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APPENDIX "K"

Alvarez & Marsal Canada Inc.
Licensed Insolvency Trustees
Bow Valley Square 4
Suite 1110
250 – 6th Avenue SW
Calgary, Alberta T2P 3H7
Phone: +1 403 538 7555
Fax: +1 403 538 7551

April 13, 2026

To whom it may concern:

RE: Angus A2A GP Inc., Angus Manor Park A2A GP Inc., Angus Manor Park A2A Capital Corp., Angus Manor Park A2A Developments Inc. ("Angus Manor Developments"), Windridge A2A GP Inc., Windridge A2A Developments, LLC, Fossil Creek A2A GP Inc., Fossil Creek A2A Developments, LLC, A2A Developments Inc., Serene Country Homes (Canada) Inc., A2A Capital Services Canada Inc., Wingham Creek A2A Developments Inc. ("Wingham Developments"), Lake Huron Shores A2A Developments Inc. ("LHS Developments"), and Meaford A2A Developments Inc. ("Meaford Developments", and collectively, the "Companies" or the "A2A Group")

The purpose of this letter is to: (i) provide information regarding the Monitor's intent to seek approval from the Court to extend the Charges over the Offshore Investors' interests in the Lands, in order to fund these proceedings in a manner that is fair and equitable as between the Offshore Investors and Canadian Investors (capitalized terms as defined herein); and (ii) seek the Offshore Investors opinion about whether they support the expansion of the Charges.

On November 25, 2024, upon the application of certain Canadian Investors, the Court of King's Bench of Alberta (the "**Court**") issued an amended and restated initial order (the "**ARIO**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") with respect to certain of the Companies. On October 23, 2025, the Court granted an order (the "**Additional Projects Orde**r") extending the scope of the CCAA proceedings and the Monitor's powers to include three additional entities: Wingham Developments, LHS Developments, and Meaford Developments (collectively, the "**Additional Project Entities**"). Pursuant to the ARIO and Additional Projects Order, Alvarez & Marsal Canada Inc. was appointed as monitor (the "**Monitor**") of the business and financial affairs of the Companies, with expanded powers to operate the day-to-day business of the Companies. Copies of the ARIO and Additional Projects Order are enclosed for reference.

Pursuant to paragraphs 49 and 54 of the ARIO, the Court granted the following charges (collectively, the "**Charges**") over the property of the Angus Manor Entities, Windridge Entities, and Fossil Creek Entities (each as defined in **Schedule "A"** hereto):

(a) an Administration Charge as security for the professional fees and disbursements incurred by the Monitor, the Monitor's counsel, and representative counsel for the Canadian Investors and Offshore Investors up to $1,000,000; and

(b) an Interim Lender's Charge to secure the borrowings of the Monitor from Pillar Capital Corp. as interim lender to finance working capital requirements and capital expenditures up to $1,250,000 plus interest, fees and expenses.

Pursuant to paragraph 10 of the Additional Projects Order, the Charges were extended over the property of the Additional Project Entities.

These Charges allow the Monitor to secure payment of professional fees and interim financing by asserting priority claims against the property of the Companies. At present, the Charges are limited to the following property:

(a) undivided fractional interests ("**UFIs**") held by the Angus Manor Entities in the Angus Manor Lands;

(b) any interests held by the Fossil Creek Entities in the sale proceeds from any sale of the Fossil Creek Lands;

(c) any UFIs or other interests held by the Windridge Entities in the Windridge Lands (together with the Fossil Creek Lands, the "**Texas Lands**") or proceeds from any sale of the Windridge Lands;

(d) any property of A2A Developments Inc, Serene Country Homes (Canada) Inc., and A2A Capital Services Canada Inc.;

(e) the four UFIs held by Wingham Developments in the Wingham Lands;

(f) the one UFI held by LHS Developments in the LHS Lands;

(g) the forty-nine UFIs held by Meaford Developments in the Meaford Lands; and

(h) units in limited partnerships through which the interests of Canadian Investors in the Angus Manor, Fossil Creek and Windridge projects are held indirectly by certain A2A Group entities.

Currently, the Charges do not extend to any interests of the Offshore Investors in the Angus Manor Lands, Texas Lands, or Additional Projects Lands (collectively, the "**Lands**"). However, the Charges do extend to the interests of the Canadian Investors, as those investors hold equity interests in certain Angus Manor Entities, Windridge Entities, and Fossil Creek Entities whose interests are charged.

For the Monitor to effectively market and proceed with the court-approved sale process in relation to the Wingham Lands, LHS Lands and Meaford Lands (collectively, the "**Additional Project Lands**"), the Monitor, and all other professional service providers, need to have security to fund the inclusion of the Additional Project Entities. Further, there is a material imbalance in risk allocation as Canadian Investors bear the primary cost associated with these CCAA proceedings, despite having no investments in the Additional Projects, which interests are held exclusively by Offshore Investors. Accordingly, the Monitor has scheduled an application to be heard on May 28, 2026 at 10:00 AM MST (the "**May Application**"). At the May Application, the Monitor intends to request that the Charges be extended over the Offshore Investor's UFIs in the Lands.

In its capacity as Monitor with enhanced powers, the Monitor acts as facilitator of the Angus Manor, Fossil Creek, Windridge, Wingham, LHS, and Meaford projects (the "**Facilitator**") pursuant to the applicable Deeds of Covenant. As Facilitator, the Monitor is granted broad authority to act as attorney and agent for the Co-Owners (as defined in each Deed of Covenant) in the administration of the Co-Owner's property, including the Offshore Investor's interests in the Lands. This authority expressly includes the powers to execute and deliver agreements, borrow or advance funds with priority repayment rights from sale proceeds, and otherwise deal with the property without any requirement that third parties inquire into or verify its authority. Further, the Power of Attorney granted by each Co-Owner authorizes the applicable Facilitator to sell, transfer, assign, lease or to otherwise deal in any way whatsoever with the Co-Owners interest in the Lands. Accordingly, the Monitor, acting as Facilitator pursuant to the applicable Deeds of Covenant and Powers of Attorney, has the power to pledge, charge, and otherwise encumber the Co-Owners' property as collateral in connection with these CCAA proceedings.

The objective of the proposed expansion of the Charges over the Offshore Investor's interests in the Lands is to ensure that the costs associated with administering and realizing upon the property

in these CCAA proceedings are appropriately secured across the entire ownership structure, thereby facilitating an orderly sales process for the benefit of all stakeholders and with all stakeholders bearing a fair share of the associate risk. Absent such expansion, the Monitor will lack sufficient funding to proceed with the inclusion of the Additional Project Entities, and it may be necessary to seek their release from these CCAA proceedings. Essentially, the effect of extending the Charges is that a portion of the funds recovered in these CCAA proceedings that would otherwise be payable to the Offshore Investors will instead be used to pay for other fees and costs. In the alternative, if the Charges are not extended, it is likely that these Offshore Investors will risk recovering nothing instead as the Additional Project Entities could be released from these CCAA proceedings and they would be reverted to the control of the A2A group.

Copies of the May Application materials, as well as all other materials filed in these CCAA proceedings, will be posted to the Monitor's website at www.alvarezandmarsal.com/A2A.

The Monitor would appreciate the Offshore Investors opinion regarding the May Application and the expansion of charges over the Offshore Investor's interests. Accordingly, the Monitor respectfully requests that on or before **May 1, 2026 at 4:00 PM (MST)** you please contact robp@azimuth.support providing:

(i) your name;
(ii) the names of the projects you are invested in;
(iii) the number of UFIs you hold in each project; and
(iv) a 'yes' or 'no' advising on if you support the May Application.

Should you wish to discuss your position on this matter or have any questions, please contact Offshore Representative Counsel at a2a.offshoreinvestors@nortonrosefulbright.com or the Monitor at A2A@alvarezandmarsal.com.

Yours truly,

ALVAREZ & MARSAL CANADA INC.,
in its capacity as court-appointed Monitor of the
the Companies and not in its personal or corporate capacity

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

Schedule "A"

1. **Angus Manor Entities**
    a. Angus A2A GP Inc.
    b. Angus Manor Park A2A GP Inc.
    c. Angus Manor Park A2A Capital Corp.
    d. Angus Manor Park A2A Developments Inc.

2. **Windridge Entities**
    a. Windridge A2A GP Inc.
    b. Windridge A2A Developments, LLC

3. **Fossil Creek Entities**
    a. Fossil Creek A2A GP Inc.
    b. Fossil Creek A2A Developments, LLC

APPENDIX "L"

April 20, 2026

Sent By Email

Known A2A Offshore Investors

Norton Rose Fulbright Canada LLP
400 3rd Avenue SW, Suite 3700
Calgary, Alberta T2P 4H2 Canada

F: +1 403.264.5973
nortonrosefulbright.com

Aaron Stephenson

A2A.OffshoreInvestors@nortonrosefulbright.com

Our reference
1001326712

Dear Sir/Madam:

Offshore Investor Update | A2A Group CCAA Proceedings | Monitor's Application to Extend Charges

Introduction

CCAA proceedings (these **CCAA Proceedings**) were commenced in the Court of King's Bench of Alberta (the **Court**) by certain Canadian investors in three A2A group real estate development projects: Angus Manor in Ontario, Canada, Fossil Creek in Texas, United States, and Windridge in Texas, United States (the **Initial Projects**).[1]

Under the Amended and Restated Initial Order, filed in the CCAA Proceedings on December 3, 2024 (the **ARIO**), we (Norton Rose Fulbright Canada LLP) were appointed as Representative Counsel to the Offshore Investors in the Initial Projects.

Additional A2A entities (the **Additional Project Entities**) associated with three additional real estate projects, Meaford, Wingham, and Lake Huron Shores,[2] all in Ontario, Canada (the **Additional Projects**), were subsequently added to these CCAA Proceedings.

We are also Representative Counsel to the Offshore Investors in the Additional Projects (together with the Initial Projects, the **Projects**).

The A2A entities subject to these CCAA Proceedings (the **A2A CCAA Parties**) are listed in Appendix A.

This letter is sent further to the April 13, 2026[3] letter from Alvarez & Marsal Canada Inc. in its capacity as Court-appointed Monitor in these CCAA Proceedings (the **Monitor**) regarding the Monitor's application to extend the Interim Financing Charge and the Administration Charge (collectively, the **Charges**) to attach to the undivided fractional interests (**UFIs**) of Offshore Investors in the six A2A real estate projects to which these CCAA Proceedings relate (the **Monitor's Application**).

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[1] There are unresolved appeals pursuant to which the A2A CCAA Parties associated with the Fossil Creek and Windridge Projects are seeking to be released from these CCAA Proceedings.
[2] Lake Huron Shores is sometimes called "LHS".
[3] The Monitor's April 13, 2026 letter was delivered by email on April 14, 2026.

In its letter, the Monitor requested that Offshore Investors send emails to robp@azimuth.support on or before **May 1, 2026 at 4:00 PM (MST)** to express either support or opposition to the Monitor's application. Please respond, as requested by the Monitor, by providing:

(i) your name;
(ii) the names of the Projects you are invested in;
(iii) the number of UFIs you hold in each project; and
(iv) a "yes" or "no" advising if you support the Monitor's application to extend the Charges.

Offshore Investors are strongly encouraged to respond, as requested by the Monitor.

Responses from Offshore Investors will inform but not dictate the position to be taken by us as Representative Counsel to the Offshore Investors in response to the Monitor's Application.

The Monitor's Application is still unfiled but is scheduled to be heard on May 28, 2026.

Monitor's Website

Filings in these CCAA Proceedings are posted publicly on the Monitor's website: A2A Group of Companies | Alvarez & Marsal | Management Consulting | Professional Services

Materials for the Monitor's Application will be posted on the Monitor's website upon filing.

The Monitor's Application

In general terms, charges are a means by which the costs of CCAA proceedings are secured so post-CCAA funding (i.e. "interim" or "debtor-in-possession" financing) can be made available to fund the proceedings' costs and so the involved professionals have greater certainty that their work will ultimately be paid-for. The granting of charges for these purposes is normal in CCAA proceedings; indeed, CCAA proceedings would very likely fail (or never start) if such charges were not granted.

When charged property is sold, proceeds are paid in priority to satisfy the charges before any net amounts are distributed.

Under the ARIO and a subsequent order filed in these CCAA Proceedings on December 23, 2024:

- An Administration Charge was granted to secure the professional fees and disbursements of the Monitor, the Monitor's legal counsel, other assistants to the Monitor, Representative Counsel for the Canadian Investors, and Representative Counsel to the Offshore Investors up to $1,000,000; and

- An Interim Lender's Charge was granted to secure the borrowings of the Monitor from Pillar Capital Corp. as interim lender to finance working capital requirements and capital expenditures up to $1,250,000 plus interest, fees, and expenses.

Currently, the Charges are secured against:

- UFI holdings by the A2A CCAA Parties in the Projects;[4]

[4] The Monitor listed these UFI interests separately by project as multiple bullets at the top of the second page of its April 13, 2026 letter.

- Any interests held by A2A CCAA Parties in proceeds of lands sold from the Fossil Creek and Windridge Projects;

- Units in limited partnerships through which the interests of Canadian Investors in the Angus Manor, Fossil Creek and Windridge projects are held indirectly through certain A2A CCAA Parties; and

- Any other property of the A2A CCAA Parties, including A2A Developments Inc., Serene County Homes (Canada) Inc. and A2A Capital Services Canada Inc.[5]

As of now, the burden of the Charges is being borne by the Canadian Investors to a greater degree than by the Offshore Investors because the Offshore Investors hold their UFIs directly (not indirectly through any A2A CCAA Parties); that is, the UFIs of Offshore Investors are not currently charged.

The Additional Projects only have Offshore Investors (i.e. they do not have Canadian Investors). Those Additional Projects are therefore only contributing to the Charges to the extent of nominal UFIs held by A2A CCAA Parties in those Projects.[6]

The Monitor's April 13, 2026 letter states that it is appropriate to extend the Charges to the UFIs of Offshore Investors so the costs of these CCAA Proceedings are "appropriately secured across the entire ownership structure" of all Projects, in a manner that is "fair and equitable", and without Canadian Investors bearing the risk associated with realizing on the Additional Projects in which they are not invested.

The Monitor's letter states that, absent extending the Charges, it may be necessary to seek the release of the Additional Project Entities from these CCAA Proceedings, in which case they could revert to control by former A2A management. In that scenario, Offshore Investors in the Additional Projects would recover nothing on their investments through these CCAA Proceedings.

The Monitor's April 13, 2026 letter explains that its authority to extend the Charges to the UFIs of the Offshore Investors is rooted in the Monitor serving as Facilitator under Deeds of Covenant and Powers of Attorney that were entered between certain A2A CCAA Parties and the Offshore Investors, and pursuant to which the Monitor asserts powers to act.

Considerations in Responding to the Monitor

The purpose of this letter is not to influence you to express a particular position (support or opposition) for the Monitor's Application, nor to opine on the legal merits of the Monitor's Application. Its purpose is instead to encourage Offshore Investors to express their positions in response to the Monitor's Application.

In formulating your position and responding to the Monitor, you may wish to consider the following factors, potentially among others:

- The purpose of these CCAA Proceedings is to facilitate recoveries on investments by all stakeholders, including Canadian Investors and Offshore Investors;

- A consequence of extending the Charges to the UFIs of Offshore Investors is that proceeds from sales of those UFIs would go first to repaying the Charges, only after which could net proceeds be distributed;

[5] There is not believed to be significant (if any) other property held by A2A CCAA Parties.
[6] A2A CCAA Parties hold 49 of 2,280 UFIs in the Meaford Project, 4 of 1,152 UFIs in the Wingham Project, and 1 of 870 UFIs in the Lake Huron Shores Project.

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- The Canadian Investors are currently bearing the burden of the Charges disproportionately relative to the Offshore Investors;

- Extending the Charges to the Offshore Investors' UFIs may be necessary to continue funding these CCAA Proceedings, at least (but not necessarily only) with respect to the Meaford, Wingham, and Lake Huron Shores Projects;

- The Monitor (or the Canadian Investors) could apply to release the Additional Project Entities from these CCAA Proceedings if the Charges are not extended per the Monitor's Application, in which case Offshore Investors in the Additional Projects could not recover through these CCAA Proceedings; and

- Irrespective of what property is subject to the Charges, the ARIO allows the costs of these CCAA Proceedings to be allocated "among any parties who have benefited from these CCAA proceedings" (potentially including Offshore Investors).

Please provide your responses by email, as requested by the Monitor, to robp@azimuth.support on or before **May 1, 2026 at 4:00 PM (MST)**.

Yours very truly,

Aaron Stephenson
Partner

AS/jvh

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APPENDIX A

A2A CCAA Parties

Debtors

Canadian Entities

- A2A CAPITAL SERVICES CANADA INC.
- SERENE COUNTRY HOMES (CANADA) INC.
- A2A DEVELOPMENTS INC.
- ANGUS A2A GP INC.
- ANGUS MANOR PARK A2A DEVELOPMENTS INC.
- ANGUS MANOR PARK CAPITAL CORP.
- ANGUS MANOR PARK A2A GP INC.
- FOSSIL CREEK A2A GP INC.
- HILLS OF WINDRIDGE A2A GP INC.
- WINGHAM CREEK A2A DEVELOPMENTS INC.
- LAKE HURON SHORES A2A DEVELOPMENTS INC.
- MEAFORD A2A DEVELOPMENTS INC.

US Entities

- FOSSIL CREEK A2A DEVELOPMENTS, LLC
- WINDRIDGE A2A DEVELOPMENTS, LLC

Affiliate Entities

Canadian Entities

- ANGUS A2A LIMITED PARTNERSHIP
- ANGUS MANOR PARK A2A LIMITED PARTNERSHIP
- FOSSIL CREEK A2A TRUST
- HILLS OF WINDRIDGE A2A TRUST
- FOSSIL CREEK A2A LIMITED PARTNERSHIP
- HILLS OF WINDRIDGE A2A LIMITED PARTNERSHIP

Additional Project Entities

Canadian Entities

- WINGHAM CREEK A2A DEVELOPMENTS INC.
- LAKE HURON SHORES A2A DEVELOPMENTS INC.
- MEAFORD A2A DEVELOPMENTS INC.

APPENDIX "M"

A2A Group
20 Week Cash Flow Forecast
for the period ending September 18, 2026
unaudited, CDN $000s (USD amounts translated at 1.37)

week ending	2026-05-08	2026-05-15	2026-05-22	2026-05-29	2026-06-05	2026-06-12	2026-06-19	2026-06-26	2026-07-03	2026-07-10	2026-07-17	2026-07-24	2026-07-31	2026-08-07	2026-08-14	2026-08-21	2026-08-28	2026-09-04	2026-09-11	2026-09-18	Total
Other Receipts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Receipts	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Other Disbursements	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Disbursements	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Professional Fees	(35.5)	-	-	-	(165.0)	-	-	-	(70.0)	-	-	-	-	(140.0)	-	-	-	(95.0)	-	-	**(505.5)**
Professional Fee Disbursements	(1.1)	-	-	-	(5.0)	-	-	-	(2.1)	-	-	-	-	(4.2)	-	-	-	(2.9)	-	-	**(15.3)**
Sales Tax	(1.5)	-	-	-	(7.5)	-	-	-	(3.3)	-	-	-	-	(6.3)	-	-	-	(4.5)	-	-	**(23.1)**
Contingency	(3.8)	-	-	-	(17.8)	-	-	-	(7.5)	-	-	-	-	(15.1)	-	-	-	(10.2)	-	-	**(54.4)**
Total Accrued Disbursements	**(41.9)**	**-**	**-**	**-**	**(195.3)**	**-**	**-**	**-**	**(82.9)**	**-**	**-**	**-**	**-**	**(165.6)**	**-**	**-**	**-**	**(112.6)**	**-**	**-**	**(598.3)**
Net Cash Flow	**(41.9)**	**-**	**-**	**-**	**(195.3)**	**-**	**-**	**-**	**(82.9)**	**-**	**-**	**-**	**-**	**(165.6)**	**-**	**-**	**-**	**(112.6)**	**-**	**-**	**(598.3)**
Opening Cash	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	82.6	**82.6**
Interim Financing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**-**
Administration Charge	41.9	-	-	-	195.3	-	-	-	82.9	-	-	-	-	165.6	-	-	-	112.6	-	-	**598.3**
Net Cash Flow	(41.9)	-	-	-	(195.3)	-	-	-	(82.9)	-	-	-	-	(165.6)	-	-	-	(112.6)	-	-	**(598.3)**
Ending Cash	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**	**82.6**
Opening Administration Charge	2,588.8	2,630.7	2,630.7	2,630.7	2,630.7	2,826.0	2,826.0	2,826.0	2,826.0	2,908.9	2,908.9	2,908.9	2,908.9	2,908.9	3,074.5	3,074.5	3,074.5	3,074.5	3,187.1	3,187.1	**2,588.8**
Allocated	41.9	-	-	-	195.3	-	-	-	82.9	-	-	-	-	165.6	-	-	-	112.6	-	-	**598.3**
Closing Administration Charge	**2,630.7**	**2,630.7**	**2,630.7**	**2,630.7**	**2,826.0**	**2,826.0**	**2,826.0**	**2,826.0**	**2,908.9**	**2,908.9**	**2,908.9**	**2,908.9**	**2,908.9**	**3,074.5**	**3,074.5**	**3,074.5**	**3,074.5**	**3,187.1**	**3,187.1**	**3,187.1**	**3,187.1**
Opening Interim Financing	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	(1,500.0)	**(1,500.0)**
Interim Financing Funded	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**-**
Interim Financing Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**-**
Interest Reserve & Fee Holdback	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**-**
Closing Interim Financing	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**	**(1,500.0)**

Disclaimer

In preparing the Updated CF Forecast, the Monitor has made certain assumptions discussed below with respect to the requirements and impact of a filing under the Companies' Creditors Arrangement Act ("CCAA"). Since the Updated CF Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Forecast Period will vary from the forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or protections will be realized. The Updated CF Forecast is presented in thousands of Canadian dollars.

Note 1: Estimate for professional fees and expenses. The estimate includes the time and expenses expected to be incurred in relation to, among other things, the Angus Manor sales process and the Additional Projects sales process. The estimate also includes modest time and expenses expected to be incurred in the Chapter 11 proceeding. In light of the disposition of the Appeals, the estimate for professional fees and expenses may increase, but the total quantum of the Increased Administration Charge is expected to cover any additional increase.