

COURT FILE NO. 1303 15731

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF RIDGE DEVELOPMENT CORPORATION

DEFENDANT'S 1324206 ALBERTA LTD.

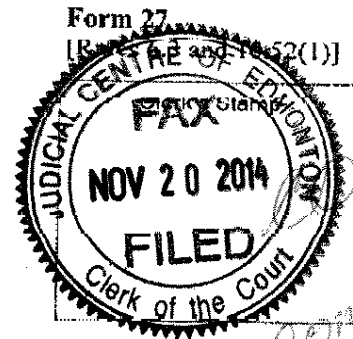
PARTY FILING THIS DOCUMENT ALVAREZ & MARSAL CANADA INC. IN ITS CAPACITY AS THE COURT APPOINTED RECEIVER AND MANAGER OF 1324206 ALBERTA LTD.

DOCUMENT **APPLICATION FOR AN ORDER APPROVING SALE AND VESTING ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

McMILLAN LLP
 1700, 421 - 7th Avenue S.W.
 Calgary, AB T2P 4K9
 Attention: Adam C. Maerov/Marc-Elie Scott

Telephone: (403) 215-2752
 Facsimile: (403) 531-4720
 File No. 222630



NOTICE TO RESPONDENT

This application is made against you. You are the respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date: November 28, 2014
 Time: 2:00 p.m.
 Where: Edmonton Law Courts
 Before Whom: The Honourable Mr. Justice D.R.O. Thomas

Go to the end of this document to see what else you can do and when you must do it.

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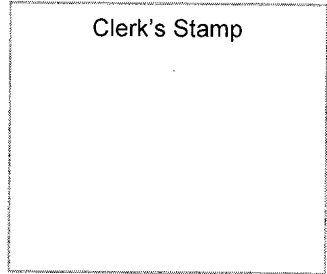
DEFENDANTS 1324206 ALBERTA LTD.

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Remedy claimed or sought:

1. An Order abridging the time for service and deeming service good and sufficient upon all interested parties.
2. An Approval and Vesting Order substantially in the form attached as Schedule "A" hereto, or on such further and other terms as this Honourable Court may direct.
3. An Order temporarily treating as confidential, sealing and not forming part of the public record the confidential appendices to the First Report of the Receiver (the "**Report**"), containing a copy of the Sale Agreement (as subsequently defined) and a copy of the review and analysis of the offers (together, the "**Confidential Appendices**"), until the later of (a) the closing of the Sale Agreement, (b) May 28, 2015, and (c) such later date as may be ordered further by this Honourable Court.
4. An Order authorizing the Receiver (as subsequently defined) to distribute the proceeds of the transaction contemplated in the Sale Agreement in repayment of the Receiver's Borrowings Charge together with interest and charges thereon (as defined in the Receivership Order), and that the Receiver shall hold the remaining proceeds until further order of this Honourable Court.
5. Such further and other relief as this Honourable Court may grant.

Grounds for making this application:

6. Alvarez & Marsal Canada Inc. was appointed Receiver and Manager (the "**Receiver**") of the assets, undertakings, and property (collectively, the "**Property**") of 1324206 Alberta Ltd. ("**132**") pursuant to an Order of this Honourable Court dated November 13, 2013 (the "**Receivership Order**").
7. The Receivership Order authorizes the Receiver, *inter alia*, to:
 - a. Market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
 - b. Sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, with the approval of this Honourable Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds \$100,000, and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, RSA 2000, c P-7 shall not be required;
 - c. Apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property; and
 - d. Take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligation.
8. 132's primary business was the development of a condominium complex, commonly referred to as Whitemud Heights, on the Stony Plain Reserve No. 135 (the "**Whitemud Heights Project**").

9. The property of the Whitemud Heights Project is legally described as follows:
- STONY PLAIN INDIAN RESERVE NO. 135
(BEING LANDS OCCUPIED BY ENOCH CREE NATION 440)
CANADA LANDS SURVEY SYSTEMS PLAN NO. 96507
WITHIN LOT 186, PLAN 92619 CLSP
WITHIN THE NE ¼ 25-52-26 W4M
10. In order to market the Property, the Receiver engaged the services of CBRE Limited (“**CBRE**”), commercial realtors with substantive experience selling large complexes, after reviewing proposals from five separate commercial real estate firms.
11. CRBE undertook the following marketing steps as part of the sale process of the Property (the “**Sale Process**”):
- a. CBRE sent out a mass market email to over 3000 approved investors and outside commercial realtors; and
 - b. CBRE advertised the property on their website and on LoopNet, an online commercial real estate marketing website.
12. At the conclusion of the Sale Process, five offers had been received.
13. The Receiver undertook an analysis of the offers which included consideration of:
- a. The extent to which the purchase price in the offers was consistent with the independent appraisals available to the Receiver;
 - b. The overall execution risk associated with closing a transaction with the particular prospective purchaser;
 - c. The extent to which the purchaser complied with the sales process; and
 - d. The size of the non-refundable deposit.
14. The Receiver, in consultation with CBRE, determined that the offer from 1845315 Alberta Ltd. to purchase all of the Property (the “**Sale Agreement**”) was the highest and best offer.
15. The Receiver accepted the Sale Agreement, subject to the approval of this Honourable Court.
16. The Receiver submits that:
- a. it has made commercially reasonable efforts to obtain the highest realizations for the Property and has not acted imprudently;
 - b. the Sale Agreement is the highest and best received and the sale to 184 is in the interests of all parties;
 - c. the Sale Process by which offers were obtain was one characterized by efficacy and integrity; and,
 - d. there was no unfairness in the working out of the Sale Process.

17. The Sale Agreement includes, *inter alia*, an assignment of lease for Whitemud Heights Project, dated February 21, 2008 between 1324206 Alberta Ltd. and Her Majesty the Queen in right of Canada (the “Lease”), to 184.
18. The Royal Bank of Canada, the creditor which appears to have first-ranking security over all present and after acquired personal property and real property owned by 132, supports the transaction contemplated in the Sale Agreement notwithstanding a substantial projected shortfall on the recovery of its loans.
19. This Honourable Court may seal or partially seal a Court file and any Restricted Court Access Application is governed by Division 4 of Part 6 of the *Alberta Rules of Court*.
20. The Receiver is concerned that in the event the Sale Agreement does not close for any reason, the copy of the Sale Agreement and the copy of the review and analysis of the offers contained in the Confidential Appendices to the Report may negatively affect the Receiver and 132’s efforts and abilities to remarket the Property.
21. As a result, a Restricted Court Access Order (Sealing Order) is necessary and appropriate with respect to Confidential Appendices, as:
 - a. it is necessary in order to prevent a serious risk to the proper administration of justice and bidding process because reasonably alternative measures will not prevent the risk; and,
 - b. the salutary effects of the publication ban outweigh the deleterious effects on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the accused to a fair and public trial, and the efficacy of the administration of justice.
22. Such further and other grounds as counsel for the Receiver may advise and this Honourable Court may permit.

Material or evidence to be relied on:

23. The Receiver’s First Report;
24. The pleadings and proceedings taken in this Action; and,
25. Such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

26. Rules 1.3, 1.4, 6.3, and 13.5(2) of the *Alberta Rules of Court*; and
27. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

28. Not applicable to this application.

Any irregularity complained of or objection relied on:

29. Not applicable to this application.

How the application is proposed to be heard or considered.

30. In person in Open Chambers.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

COURT FILE NUMBER 1303 15731
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF RIDGE DEVELOPMENT CORPORATION
DEFENDANT 1324206 ALBERTA LTD.
DOCUMENT APPROVAL AND VESTING ORDER

Clerk's Stamp

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT McMillan LLP
Suite 1700, 421 – 7th Avenue S.W.
Calgary, Alberta T2P 4K9

Attention: Adam Maerov

DATE ON WHICH ORDER WAS PRONOUNCED: November 28, 2014

NAME OF JUSTICE WHO MADE THIS ORDER: Justice D.R.G. Thomas

LOCATION OF HEARING: Edmonton, Alberta

UPON THE APPLICATION by Alvarez & Marsal Canada Inc. in its capacity as the Court-appointed receiver and manager (the "Receiver") of the undertaking, property and assets of 1324206 Alberta Ltd. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and 1845315 Alberta Ltd. (the "Purchaser") dated September 24, 2014 and appended to the First Report of the Receiver dated November [21], 2014 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Assets");

AND UPON HAVING READ the Receivership Order dated November 13, 2013 (the "Receivership Order"), the Report and the Affidavit of Service; **AND UPON HEARING** the submissions of counsel for the Receiver, the Purchaser [Names of other parties appearing], no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTIONS

2. The Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Assets to the Purchaser.

VESTING OF PROPERTY

3. Upon the delivery of a Receiver's certificate to the Purchaser substantially in the form set out in **Schedule "A"** hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Assets described in the Sale Agreement and listed on **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order;
 - (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system; and
 - (c) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**); and,

for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Assets are hereby expunged and discharged as against the Assets.

4. Upon the delivery of the Receiver's Certificate, and upon the filing of a certified copy of this Order, together with any applicable registration fees, the Registrar of Indian Lands Registry (Canada) (the "Registrar") is hereby authorized, requested, and directed to register a certified copy of this Order in respect of lands comprising the Stony Plain Indian Reserve No. 135, being the lands occupied by the Enoch Cree Nation 440 and legally described as:

Canada Lands Survey System Plan No. 96507
 Within Lot 186, Plan 92619 CLSP
 Within the NE 1/4 23-52-26 W4M

PIN 702522166

(the "Project Lands")

and to register such transfers, discharges, discharge statements of conveyances, as may be required to withdraw all notices against the Project Lands except those encumbrances (the "Permitted Encumbrances") listed on **Schedule "D"** hereto.

5. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Assets, and from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Assets with the same priority as they had with respect to the Assets immediately prior to the sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
6. The Debtor and all persons who claim by, through or under the Debtor in respect of the Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Assets and, to the extent that any such persons remains in possession or control of any of the Assets, they shall forthwith deliver possession thereof to the Purchaser.
7. The Purchaser shall be entitled to enter into and upon, hold and enjoy the Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by or through or against the Debtor.

8. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Receiver or the Debtor.
9. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser.
10. Pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and section 20(e) of the Alberta *Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees, including personal information of those employees listed in the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.
11. Notwithstanding:
 - (a) The pendency of these proceedings;
 - (b) Any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
 - (c) Any assignment in bankruptcy made in respect of the Debtor;the vesting of the Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
12. The Receiver, the Purchaser and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

RESTRICTED COURT ACCESS ORDER (SEALING ORDER)

13. The confidential appendices to the First Report of the Receiver containing a copy of the Sale Agreement and a copy of the review and analysis of the offers (together, the "Confidential

Appendices”) are hereby sealed until the later of a) completion of the sale approved by this Order, b) May 28, 2015 or c) such later date as may be ordered by further Order of the Court. The Clerk of the Court is hereby directed to file the Confidential Appendices to the First Report of the Receiver in a sealed envelope with an attached notice that sets out the title of these proceedings, a description of the documents contained therein and a statement that the envelope's contents are sealed pursuant to this Order.

SALE PROCEEDS

14. The Receiver is hereby authorized to distribute the proceeds of the Transaction in repayment of the Receiver’s Borrowings Charge together with interest and charges thereon (as defined in the Receivership Order), and the Receiver shall hold the remaining proceeds until further order of this Court.

MISCELLANEOUS MATTERS

15. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
16. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
17. Service of this Order on any party not attending this application is hereby dispensed with.

J.C. C.Q.B.A.

Schedule "A"**Form of Receiver's Certificate**

COURT FILE NUMBER	1303 15731	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	EDMONTON	
PLAINTIFF	RIDGE DEVELOPMENT CORPORATION	
DEFENDANT	1324206 ALBERTA LTD.	
DOCUMENT	RECEIVER'S CERTIFICATE	

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McMillan LLP Suite 1700, 421 – 7 th Avenue S.W. Calgary, Alberta T2P 4K9
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Attention: Adam Maerov

RECITALS

- A. Pursuant to an Order of the Honourable Justice D.R.G. Thomas of the Court of Queen's Bench of Alberta, Judicial District of Edmonton (the "Court") dated November 13, 2013, Alvarez & Marsal Canada Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of 1324206 Alberta Ltd. (the "Debtor").
- B. Pursuant to an Order of the Court dated November 28, 2014, the Court approved the agreement of purchase and sale made as of September 24 2014 (the "Sale Agreement") between the Receiver and 1845315 Alberta Ltd. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Assets, which vesting is to be effective with respect to the Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Assets payable pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____.

Alvarez & Marsal Canada Inc., in its capacity as Receiver of the undertaking, property and assets of 1324206 Alberta Ltd., and not in its personal capacity.

Per; _____

Name:

Title:

Schedule "B"**ASSETS**

The building and improvements known as Whitemud Heights, being a 123 Unit Condominium Project located at 231 Street & 79 Avenue NW, Stony Plain Indian Reserve No. 135 (the "Project").

All inventory, goods, equipment, chattels and fixtures situate in or about the Project, including all appliances presently located on the Project.

Assignment of Lease between 1324206 Alberta Ltd. and Her Majesty the Queen dated February 21, 2008 for the Lands described as:

In the Northeast Quarter, Section 23
Township 52, Range 26, West
Of the Fourth Meridian and
Being: Lot 186
As shown on a Registration
Plan recorded in the offices of Natural Resources Canada
In Edmonton as CISR 92619

Excepting thereout all mines and minerals, whether precious or base, solid, liquid or gaseous

Assignment of all contracts in respect of the Project which are capable of being assigned by the Receiver or the Court of Queen's Bench of Alberta.

Schedule "C"**CLAIMS**

1. Indian Land Registrations:

- a) Mortgage granted by Royal Bank of Canada, Registration No. 355504
- b) Consent re: Mortgage 355504 granted by Her Majesty the Queen in right of Canada, Registration No. 355503
- c) Lease granted by 1324206 Alberta Ltd., Registration No. 322152
- d) Consent granted by 1324206 Alberta Ltd. re: Lease Registration 355152, Registration No. 355503
- e) Notice re: Mortgage 355504, Registration No. 6056175
- f) Withdrawal of Notice re: Notice 6056175, Registration No. 6057309
- g) Transfer granted by Dean Pierre Ashley Alexander, Registration No. 6062353
- h) Notice re: Lease Registration 355152 (re: interest in land), Registration No. 6065824
- i) Withdrawal of Notice re: Notice 6065824, Registration No. 6067124
- j) Notice re: Lease Registration 355152 (re: interest in land), Registration No. 6068176
- k) Notice re: Lease Registration 355152 (re: interest in suite and parking stall), Registration No. 6070100
- l) Certificate of Lis Pendens re: Lease Registration 355152 and Mortgage Registration 355504, Registration No. 6071206
- m) Certificate of Lis Pendens re: Lease Registration 355152 and Agreement Registration 6067666, Registration No. 6071211
- n) Notice re: Lease Registration 355152 (re: interest in land), Registration No. 6072546
- o) Notice re: Lease Registration 355152 (re: interest in land re assignment of sale proceeds), Registration No. 6073753
- p) Notice re: Lease Registration 355152 (re: consent order), Registration No. 6074369
- q) Notice re: Lease Registration 355152 (re: interest in land), Registration No. 6074372
- r) Notice re: Lease Registration 355152 (re: interest in land), Registration No. 6074373
- s) Notice re: Lease Registration 355152 (re: interest in land), Registration No. 6074374
- t) Notice re: Lease Registration 355152 (re: interest in land), Registration No. 6074375
- u) Court Order re: Lease Registration 355152, Mortgage Registration 355504, Registration No. 6075763

2. Personal Property Registrations:

- a) Security Agreement between Royal Bank of Canada and 1324206 Alberta Ltd. and Whitemud Heights Ltd., Registration No. 07102507022
- b) Land Charge between Royal Bank of Canada and 1324206 Alberta Ltd. and Whitemud Heights Ltd., Registration No. 07102507139
- c) Security Agreement between Trail Appliances Ltd. and 1324206 Alberta Ltd., Registration No. 09120409337
- d) Writ of Enforcement filed by Darryl Dolynny against 1324206 Alberta Ltd., Registration No. 13102827584;
- e) Write of Enforcement filed by Gene Chan, Lily Chan, James Matsune, June Mah, Richard Van Toan Lee, Tuan T. Tan against 1324206 Alberta Ltd. and Whitemud Heights, Registration No. 13110811102;
- f) Security Agreement between Kirwin LLP and 1324206 Alberta Ltd. and Whitemud Heights, Registration No. 1311517129

Schedule "D"**PERMITTED ENCUMBRANCES**

Blanket Distribution Permit granted to Alberta Government Telephones dated October 14, 1969 and as registered in the Indian Lands Registry under number 15389 and as amended by 206120,270394 and 270395

Blanket Distribution Permit granted to Calgary Power Ltd. dated July 7, 1975 and as registered in the Indian Lands Registry under number 56470 and as amended by 206390

Blanket Distribution Permit granted to Northwestern Utilities Limited dated June 16, 1972 and as registered in the Indian Lands Registry under number X17088 and as amended by 314500

Blanket Distribution Permit granted to Her Majesty the Queen in Right of Alberta dated May 20, 2004 and as registered in the Indian Lands Registry under number 323673

Lease between Crown Canada and 1324206 Alberta Ltd. registered in the Indian Land Registry under number 355152

Agreement between Enoch Utilities Limited and 1324206 Alberta Ltd. registered in the Indian Land Registry under number 6067666

Certificate of Possession 403016251 in favour of Dean Alexander registered in the Indian Land Registry under number 6062353

Caveat 812JA