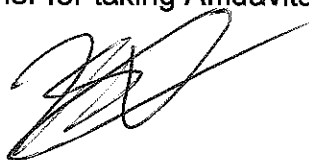


This is **Exhibit "F"** to the
Affidavit of Paul Montgomery
sworn before me, this 25th day of
May, 2016.

Sebastien Jean Pépin, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires April 20, 2019.

A Commissioner for taking Affidavits, etc.



FINAL**CREDIT AGREEMENT****BETWEEN****URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.
as Borrower****AND****ALAN SASKIN, URBANCORP TORONTO MANAGEMENT INC., URBANCORP
(RIVERDALE) DEVELOPMENTS INC. and URBANCORP (THE BEACH) DEVELOPMENTS
INC.
as Guarantors****AND****CANADIAN IMPERIAL BANK OF COMMERCE
as Administrative Agent and Syndication Agent****AND****CANADIAN IMPERIAL BANK OF COMMERCE
as Lead Arranger, Bookrunner and Documentation Agent****AND****THE FINANCIAL INSTITUTIONS
from time to time parties hereto
as Lenders****MADE AS OF****July 13, 2012****McCarthy Tétrault LLP
Harris, Sheaffer LLP**

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CREDIT AGREEMENT

THIS AGREEMENT is made as of July 13, 2012

BETWEEN

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.
(the "**Borrower**"),

- and -

**ALAN SASKIN, URBANCORP TORONTO MANAGEMENT INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC. and
URBANCORP (THE BEACH) DEVELOPMENTS INC.**
(the "**Guarantors**" and each a "**Guarantor**"),

- and -

CANADIAN IMPERIAL BANK OF COMMERCE,
in its capacity as administrative agent for the Lenders
(the "**Administrative Agent**"),

- and -

THE FINANCIAL INSTITUTIONS from time to time party to this Agreement and designated as Lenders on the signatures pages hereto (each, a "**Lender**" and collectively, the "**Lenders**"),

WHEREAS the Borrower has requested the Credit Facilities to finance the Hard Costs and Soft Costs associated with the construction and development of the Project, payout of existing encumbrances on the Project, certain profit sharing obligations in connection with the acquisition of the Project Lands pursuant to the Profit Sharing Agreement, and the issuance of Letters of Credit in conjunction therewith, and the Lenders have agreed to provide the Credit Facilities to the Borrower upon and subject to the terms and conditions set out in this Agreement;

AND WHEREAS Canadian Imperial Bank of Commerce will be the Administrative Agent as contemplated by Section 7.1 of Schedule A;

AND WHEREAS it is a condition of the provision of the Credit Facilities that the Guarantors agree to provide a guarantee for the obligations of the Borrower on the terms and conditions set forth herein (and the Guarantors have so agreed);

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

ARTICLE 1 - INTERPRETATION

1.01 Definitions

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

“Administrative Agent’s Office” means the branch of the Administrative Agent located at 595 Bay Street, Toronto, Ontario, M5G 2C2, or such other office in Canada that the Administrative Agent may from time to time designate by notice to the Borrower and the Lenders.

“Affiliate” has the meaning set out in Schedule A.

“Agreement” means this credit agreement, including its recitals and schedules.

“Applicable Law” has the meaning set out in Schedule A.

“Applicable Margin” means the applicable percentage rate *per annum* indicated in the table below:

<i>Prime Rate Margin for Leslieville, Riverdale and Beach Facilities</i>	<i>BA Stamping Fee Rate for Leslieville, Riverdale and Beach Facilities</i>	<i>Letter of Credit Fee Rate</i>	<i>Prime Rate Margin for Capital Loan Facility</i>	<i>BA Stamping Fee Rate for Capital Loan Facility</i>
1.25%	2.50%	1.25%	1.50%	2.75%
<i>(minimum fee of \$250)</i>				

“Applicable Percentage” has the meaning set out in Schedule A.

“Architect” means such architect as may be retained by or on behalf of the Borrower in connection with the Construction of the Project, as approved by the Administrative Agent.

“Architect Contract” means the agreement between the Architect and the Borrower relating to the Project, as such agreement may be amended, restated or supplemented as permitted hereunder.

“Arm’s Length” has the meaning ascribed to such term as set out in section 251 of the *Income Tax Act* (Canada).

“Assignment of Unit Sales Agreements and Deposits” means the assignment by the Borrower, the Riverdale Guarantor and the Beach Guarantor of their rights under Unit Sales Agreements, together with the Purchaser Deposits, as amended, modified, supplemented or restated from time to time.

“Assignment of Construction Contracts” means the assignment of the Construction Contracts given by the Borrower to the Administrative Agent in a form acceptable to the Administrative Agent.

“BA Discount Proceeds” means, for any Bankers’ Acceptance (or, as applicable, Notional Bankers’ Acceptance) an amount (rounded to the nearest whole cent, and with one-half cent being rounded up) calculated on the applicable Drawdown Date, Conversion Date or Rollover Date by multiplying:

- (i) the face amount of the Bankers’ Acceptance (or, as applicable, the undiscounted amount of the Notional Bankers’ Acceptance) by
- (ii) the quotient of one divided by the sum of one plus the product of:
 - (A) the BA Discount Rate (expressed as a decimal) applicable to such Bankers’ Acceptance (or, as applicable Notional Bankers’ Acceptance), multiplied by
 - (B) a fraction, the numerator of which is the Interest Period of the Bankers’ Acceptance (or, as applicable, Notional Bankers’ Acceptance) and the denominator of which is 365,

with such quotient being rounded up or down to the nearest fifth decimal place, and with .000005 being rounded up.

“BA Discount Rate” means, for any Drawdown Date, Rollover Date or Conversion Date in respect of Bankers’ Acceptances purchase by a Lender on such day, or a BA Equivalent Advance being made by a Non BA Lender on such day, (i) for any Lender that is a Schedule I Lender, the CDOR Rate on such day for such Interest Period, and (ii) for any Non-Schedule I Lender, the lesser of (a) the CDOR Rate on such day for such Interest Period, plus 0.10%, and (b) the percentage discount rate quoted by such Lender as the percentage discount rate at which such Lender would, in accordance with its normal practices, at or about 10:00 a.m. on such date, be prepared to purchase bankers’ acceptances or make BA Equivalent Advances having a face amount and term comparable to the face amount and term of the relevant Bankers’ Acceptance or, in the case of a Non BA Lender, the relevant BA Equivalent Advance.

“BA Equivalent Advance” means, in relation to a Drawdown of, Conversion to or Rollover of Bankers’ Acceptances, a Loan in Canadian Dollars made by a Non BA Lender as part of such Drawdown, Conversion or Rollover.

“BA Lender” means any Lender that is a bank chartered under Schedule I of the *Bank Act* (Canada) and that has not notified the Administrative Agent in writing that it is unwilling or unable to accept Drafts as provided for in Article 5.

“BA Stamping Fee” means the amount calculated by multiplying the face amount of a Bankers’ Acceptance or a Notional Bankers’ Acceptance by the applicable BA Stamping Fee Rate and then multiplying the result by a fraction, the numerator of which is the number of days to elapse from and including the date of acceptance of such Bankers’ Acceptance or purchase of such Notional Bankers’ Acceptance by a Lender up to but excluding the maturity date of such Bankers’ Acceptance or Notional Bankers’ Acceptance, and the denominator of which is the number of days in the calendar year in question.

“BA Stamping Fee Rate” means, with respect to a Bankers’ Acceptance or a Notional Bankers’ Acceptance, the applicable percentage rate *per annum* indicated below the reference to “BA Stamping Fee Rate” (per facility as applicable) in the definition of “Applicable Margin”.

“Bankers’ Acceptance” means those drafts or bills of exchange in Canadian Dollars drawn by the Borrower and accepted by a Lender pursuant to this Agreement and includes a depository bill under the *Depository Bills and Notes Act* (Canada) and a bill of exchange under the *Bills of Exchange Act* (Canada).

“Beach Construction Facility” has the meaning set out in Section 2.01(a).

“Beach Construction Facility Commitment” has the meaning set out in Section 2.01(a).

“Beach Construction Schedule” means the construction schedule in respect of the Beach Project Phase provided to and approved by the Lenders, as it may be amended from time to time pursuant to the provisions of Section 9.03(13).

“Beach Credit Facilities” means the Beach Construction Facility and the Beach Swingline Facility and **“Beach Credit Facility”** means any one of them.

“Beach Deferred Costs” means Budgeted Project Costs which are to be incurred after all Obligations under the Beach Construction Facility has been repaid in full (or, in the case of the LC Facility, any outstanding Letters of Credit relating to the Beach Project Phase have been fully cash collateralized on a dollar for dollar basis).

“Beach Excess Sale Proceeds” means the Net Sale Proceeds from Unit sales in respect of the Beach Project Phase occurring after the date the Beach Credit Facilities have been fully repaid.

“Beach Guarantor” means Urbancorp (The Beach) Developments Inc.

“Beach Interim Revenue” means proceeds of sale, recovery of expenses or any other Project cash flow from the Beach Project Phase received or anticipated while any availability exists or any Obligations remain outstanding under the Beach Construction Facility.

“Beach Project Phase” means the Beach Project Phase Lands and the 32 Unit, low-rise residential development and other improvements and all landscaping, plants, machinery, improvements and equipment and all other property whether free standing or otherwise, auxiliary or ancillary thereto or connected therewith or added thereto, to be constructed on, above or under the surface of the Beach Project Phase Lands, in each case in respect of which the Borrower have an ownership in accordance with the applicable Plans and Specifications and in accordance with the Beach Project Phase Budget.

“Beach Project Phase Budget” means in respect of the Beach Project Phase, the budget of all Project Costs which has specified a line by line itemization of Project Costs, including Contingency Amounts, as prepared by the Borrower and approved by the Lenders and the Independent Cost Consultant prior to the first Drawdown under the Credit Facilities, as amended from time to time subject to the requirements of Section 9.03(11), the Beach Project Phase Budget as at the date hereof being attached as Schedule 1.01(H).

“Beach Project Phase Lands” means the lands and premises comprising the Beach Project Phase site located at 42 Edgewood Avenue, Toronto, Ontario and more particularly described in Schedule C hereto under the heading “Beach Project Phase Lands”.

“Beach Swingline Facility” has the meaning set out in Section 2.02(1).

“Beach Swingline Loan” has the meaning set out in Section 2.02(2).

“Beach Undistributed Deposit Amount” means, on any given date, the amount, if any, by which \$1,956,000 exceeds the amount of Purchaser Deposits that have been used to fund Project Costs in respect of the Beach Project Phase.

“Borrower” means Urbancorp (Leslieville) Developments Inc.

“Budgeted Project Costs” means the costs associated with acquisition of the Project Land, profit sharing obligations in connection with the acquisition of the Leslieville Project Lands pursuant to the Profit Sharing Agreement, and all budgeted Hard Costs and all budgeted Soft Costs described as a line item in a Project Budget, including any Contingency Amount of budgeted Hard Costs and budgeted Soft Costs.

“Business Day” means a day of the year, other than a Saturday, Sunday or statutory holiday, on which the Administrative Agent is open for business at its executive offices in Toronto, Ontario.

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

“Capital Lease” means a capital lease or a lease that should be treated as a capital lease under GAAP.

“Capital Loan Facility” has the meaning ascribed thereto in Section 2.01(e).

“Capital Loan Facility Commitment” has the meaning ascribed thereto in Section 2.01(e).2.02(1)

“CDOR Rate” means, on any day and for any period, an annual rate of interest equal to the average rate applicable to Canadian Dealer Offered Rate for Canadian Dollar bankers' acceptances for the applicable period appearing on the “Reuters Screen CDOR Page” (as defined in the International Swaps and Derivatives Association, Inc. definitions, as modified and amended from time to time), at approximately 10:00 a.m. on such day, or if such day is not a Business Day, then on the immediately preceding Business Day, provided that if such rate does not appear on the Reuters Screen CDOR Page on such day contemplated, then the CDOR Rate on such day shall be calculated as the rate for such period applicable to Canadian Dollar bankers' acceptances quoted by the Administrative Agent as of 10:00 a.m., on such day, or if such day is not a Business Day, then on the immediately preceding Business Day.

“Certificate of Independent Legal Advice” means a certificate signed by the Saskin Guarantor certifying that the Saskin Guarantor has had independent legal advice to understand the nature and consequences of the Obligations of the Saskin Guarantor pursuant to this Agreement.

“Certificate of Substantial Completion” means a certificate to be issued by the Independent Cost Consultant certifying that “substantial performance” of the Construction of a Project Phase of the Project has been achieved in accordance with Section 2(1) of the *Construction Lien Act* (Ontario), and in such regard, the Independent Cost Consultant may rely on the Certificate of Substantial Performance.

“Certificate of Substantial Performance” means a certificate to be issued by the Architect, the Independent Cost Consultant or other relevant Consultant certifying that, in respect of a Project Phase of Construction for the Project:

- (i) Construction of the relevant improvements has been substantially completed as described in Paragraph 2(1)(a) of the *Construction Lien Act* (Ontario); and
- (ii) such Construction has been completed in accordance, and complies in all material respects, with all applicable by-laws (including, without limitation, municipal building and zoning by-laws), building code requirements, licences, certificates, consents, approvals, minor variances, rights, permits and agreements, including, without limitation, the relevant Plans and Specifications and related Material Project Agreements and, where applicable, the requirements of the Tarion Home Warranty Program.

"City" means City of Toronto.

"Commitment" means, in respect of each Lender with respect to a particular Credit Facility, the amount specified with respect to such Lender in Schedule B (which will be amended and distributed to all parties by the Administrative Agent from time to time as other Persons become Lenders), being the sum of the maximum aggregate amount of (i) Loans that such Lender is obliged to make, and (ii) such Lender's participation in Letters of Credit, as such amount may be reduced from time to time by such Lender's Applicable Percentage of the amount of any permanent repayments, reductions or prepayments required or made hereunder.

"Compliance Certificate" means the certificate required pursuant to Section 9.02(2), substantially in the form attached as Schedule 1.01(A), signed by any senior officer of the relevant Obligor.

"Condominium Act" means the *Condominium Act*, R.S.O. 1998, c.19, as amended or replaced from time to time.

"Condominium Documents" means the Declaration, condominium corporation by-laws (or agreements relating thereto), shared facility agreements, insurance trust agreement (if any) or other documents relating to the creation and operation of the Project Phases to be condominiumized (it being acknowledged by the parties hereto that at the time of execution of this agreement only the Leslieville Project Phase is intended to be condominiumized).

"Construction" means the design and construction of each Project Phase in accordance with the Plans and Specifications applicable to such Project Phase.

"Construction Completion" means, in respect of a Project Phase, the date on which:

- (i) Construction has been completed to the standard required for delivery under the Unit Sales Agreements applicable to such Project Phase; and
- (ii) the Borrower has received all relevant occupancy permits and passed inspections required by Governmental Authorities (other than those inspections required to be made in respect of work undertaken by purchasers under Unit Sales Agreements) applicable to such Project Phase.

For greater certainty, Construction Completion in respect of a Project Phase can occur prior to the condominiumization of the Project Lands (or a portion thereof).

"Construction Contracts" means all contracts, subcontracts and agreements entered into by or on behalf of the Borrower relating to the Construction, including contracts, subcontracts and agreements relating to the supply of materials or services to or for the Project.

“Construction Facilities” has the meaning set out in Section 2.01(b).

“Construction Facility” means the Leslieville Construction Facility, the Beach Construction Facility, or the Riverdale Construction Facility, as the context requires.

“Consultant Contracts” means the contracts entered into by or on behalf of the Borrower and each of the Consultants.

“Construction Schedule” means the Leslieville Construction Schedule, the Beach Construction Schedule, or the Riverdale Construction Schedule, as the context requires, and **“Construction Schedules”** means both the Leslieville Construction Schedule or the Riverdale Construction Schedule.

“Consultants” means, as applicable, the Architect, the Engineers, any geotechnical and environmental engineers for the Project, and such other consultants as are listed in Schedule 1.01(B).

“Contingency Amount” means, with respect to a Project Budget, the amount, if any, of any contingency provided in such Project Budget in respect of the calculation of Project Costs applicable to the Project Phase to which such Project Budget relates.

“Contractors” means the contractors, sub-contractors and suppliers retained by or on behalf of the Borrower in connection with the Construction of the Project.

“Contingent Obligation” means, with respect to any Person, any obligation, whether secured or unsecured, of such Person guaranteeing or indemnifying, or in effect guaranteeing or indemnifying, any indebtedness, leases, dividends, letters of credit or other monetary obligations (the “primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person as an account party in respect of a letter of credit or letter of guarantee issued to assure payment by the primary obligor of any such primary obligation and any obligations of such Person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds for the purchase or payment of any such primary obligation or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the obligee under any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the obligee under such primary obligation against loss in respect of such primary obligation; provided, however, that the term Contingent Obligation does not include endorsements of instruments for deposit or collection in the ordinary course of business.

“Control” has the meaning set out in Schedule A.

“Conversion” means a conversion of a Loan pursuant to Section 2.05.

“Conversion Date” means the Business Day specified by the Borrower in a Conversion Notice as being the date on which the Borrower has elected to convert one type of Loan into another type of Loan.

“Conversion Notice” means a notice, substantially in the form set out in Schedule 1.01(C), to be given to the Administrative Agent by the Borrower pursuant to Section 2.05.

“Costs-In-Place Margin” means, at the relevant time of calculation and in respect of a Project Phase, the result obtained from the calculation (without duplication) of A minus B, where;

“A” is the sum of “in place” Hard Costs and Soft Costs incurred to date (as certified by the Independent Cost Consultant) in respect of such Project Phase, and

“B” is the sum of: (a) Holdbacks, (b) Hard Costs and Soft Costs incurred to date, but not paid in full (excluding Holdbacks and those to be paid from the requested Drawdown), (c) Project Equity (including debt that has been subordinated to the Credit Facilities on terms and conditions acceptable to the Required Lenders), (d) any amount due in respect of the Project Lands, (e) Interim Revenue, and (f) Purchaser Deposits that have been released to the Borrower by the DBC (in respect of the Leslieville Project Phase) or used by the Borrower to fund Project Costs (in respect of the Beach and Riverdale Project Phases).

“Cost Overrun and Completion Guarantee” means the debt service, cost overrun and completion guarantee made by the Obligors in favour of the Administrative Agent, for and on behalf of the Lenders, as such guarantee may be amended or restated from time to time.

“Cost Overruns” means, in respect of a Project Phase, the positive difference, if any, between the then Cost to Complete applicable to such Project Phase and the amount of all unpaid Budgeted Project Costs (which, for greater certainty, includes any Contingency Amount) attributable to the Construction of the Project Phase to which the Cost to Complete relates.

“Cost to Complete” means, at any given date and in respect of a Project Phase, that amount established by the Administrative Agent (with the assistance of the Independent Cost Consultant), which is the aggregate of (without duplication):

- (i) the amount of all Project Costs not then incurred in respect of such Project Phase;
- (ii) the amount of all Project Costs incurred, to the extent not paid in full in respect of such Project Phase (excluding those to be paid from the requested Drawdown),
- (iii) all Holdbacks applicable to such Project Phase,

as of such date.

“Credit Facilities” means the Leslieville Construction Facility, the Riverdale Construction Facility, the Beach Construction Facility, the LC Facility, the Leslieville Swingline Facility, the Riverdale Swingline Facility, the Beach Swingline Facility and the Capital Loan Facility and **“Credit Facility”** means any one of them.

“DBC” means, in respect of the Leslieville Project Phase, the deposit bonding and deposit insurance company, Travelers Guarantee Company of Canada, or its successors or assigns or other deposit insurance or such other bonding company acceptable to the Administrative Agent, acting reasonably, as the surety for bonds and/or excess deposit insurance issued to Tarion Warranty Corporation and/or purchasers of Units pursuant to the terms of Unit Sales Agreements in respect of the Leslieville Project Phase for the deposits made by such purchasers thereunder.

“DBC Agreements” mean the agreements to be entered into between DBC and the Borrower in respect of Purchaser Deposits in respect of the Leslieville Project Phase, bonds issued in respect thereof and/or excess deposit insurance.

“DBC Mortgage” means the subordinate mortgage granted by the Borrower in favour of the DBC as collateral security for the obligations of the Borrower to DBC pursuant to the DBC Agreements (such mortgage constituting a second priority Encumbrance (subject to the first priority Encumbrance of the Security) on the Leslieville Project Phase Lands and a first priority Encumbrance on Purchaser Deposits (with the Security forming a second priority Encumbrance on Purchaser Deposits)).

“DBC Subordination Agreement” means the subordination agreement to be made with respect to the DBC Mortgage between DBC and the Administrative Agent, for and on behalf of the Lenders, in a form acceptable to the Administrative Agent, which will include, without limitation, the agreement of DBC to subordinate the DBC Mortgage and related security to the Debenture and other Security (other than with respect to Purchaser Deposits only) and any Replacement Debenture granted to the Administrative Agent pursuant to Section 10.07.

“Debenture” means the debenture/mortgage of land in the principal amount of \$70,000,000 to be granted by the Borrower in favour of the Administrative Agent constituting a first charge on the Project Lands, which debenture shall incorporate the terms of a general security agreement, a general assignment of rents, and assignment of insurance and a general assignment of Material Project Agreements and Material Licenses.

“Debt” means, with respect to any Person, all obligations that, in accordance with GAAP, would then be classified as a liability of such Person, and, without duplication, includes, with respect to such Person,

- (i) an obligation in respect of borrowed money or for the deferred purchase price of Property or services or an obligation that is evidenced by a note, bond, debenture or any other similar instrument;
- (ii) a transfer with an obligation to repurchase, to the extent of the liability of such Person with respect thereto;
- (iii) an obligation under a Capital Lease;
- (iv) an obligation under a residual value guarantee made with respect to an operating lease in which such Person is the lessee;
- (v) a reimbursement obligation or other obligation in connection with a bankers' acceptance or any similar instrument, or letter of credit or letter of guarantee issued by or for the account of such Person;
- (vi) a Contingent Obligation to the extent that the primary obligation so guaranteed would be classified as “Debt” (within the meaning of this definition) of such Person; or
- (vii) the aggregate amount at which any shares of such Person that are redeemable or retractable at the option of the holder of such shares (except where the holder is such Person) may be redeemed or retracted prior to the Maturity Date for cash or obligations constituting Debt or any combination thereof;

provided, however, that there will not be included for the purpose of this definition any obligation that is on account of (A) reserves for deferred income taxes or

general contingencies, (B) minority interests in Subsidiaries, (C) trade accounts payable and accrued liabilities (including contract loans and income taxes payable) incurred in the ordinary course of business, or (D) Purchaser Deposits or deposits made by tenants pursuant to the terms of their related Leases.

“Declaration” means the declaration or declarations which, together with the description, shall be registered under the Condominium Act and will subject the Project or portion(s) thereof to the provisions of the Condominium Act, and all amendments to such declaration or declarations.

“Default” has the meaning set out in Schedule A.

“Direction re Closing Proceeds” means the direction from the Borrower, the Riverdale Guarantor and the Beach Guarantor to (and acknowledged by) the Borrower’s Counsel with respect to the net proceeds of all sales proceeds pursuant to Unit Sales Agreements.

“Disposition” means, with respect to a Person, any sale, assignment, transfer, conveyance, lease, licence or other disposition of any nature or kind whatsoever of any Property or of any right, title or interest in or to any Property, and the verb **“Dispose”** has a corresponding meaning.

“Distribution” means:

- (i) any payment, declaration of dividend or other distribution, whether in cash or Property, (but expressly excluding any distribution by way of the payment of dividends by the issuance of equity securities of an issuer) to any holder of shares of any class of such Person; or
- (ii) any repurchase, redemption, retraction or other retirement or purchase for cancellation of shares of such Person, or of any options, warrants or other rights to acquire any of such shares

and the verb **“Distribute”** has a corresponding meaning.

“Draft” has the meaning set out in Section 5.08(1).

“Drawdown” means:

- (i) the advance of a Prime Rate Loan; or
- (ii) the issue of one or more Letters of Credit.

“Drawdown Date” means the date on which a Drawdown is made by the Borrower pursuant to the provisions hereof.

“Drawdown Notice” means a notice, substantially in the form set out in Schedule 1.01(D), to be given to the Administrative Agent by the Borrower pursuant to Section 2.05.

“EBITDA” of a Person for any given period means such Person’s consolidated net earnings (excluding all non-recurring items) for the period before interest expense, income taxes, amortization and depreciation, as determined in accordance with GAAP.

“Encumbrance” means, with respect to any Person, any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, hypothecation or security interest granted or permitted

by such Person or arising by operation of law, in respect of any of such Person's Property, or any consignment by way of security or Capital Lease of Property by such Person as consignee or lessee, as the case may be, or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or other obligation, and "**Encumbrances**", "**Encumbrancer**", "**Encumber**" and "**Encumbered**" have corresponding meanings.

"**Engineers**" means the structural, mechanical & electrical, landscape, geotechnical and environmental, and such other engineers as may be retained by or behalf of the Borrower in connection with the Construction of the Project, as approved by the Administrative Agent.

"**Engineering Contracts**" means, collectively, the agreements entered into by or on behalf of the Borrower and the Engineers, as such agreements may be amended, restated or supplemented as permitted hereunder.

"**Environmental Law**" means any Applicable Law relating to the environment, including those pertaining to:

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

"**Event of Default**" has the meaning set out in Section 12.01.

"**Fiscal Quarter**" means the three-month period commencing on the first day of each Fiscal Year and each such successive three-month period thereafter during such Fiscal Year.

"**Fiscal Year**" means the fiscal year of a Person, which, in the case of each Obligor, currently ends on December 31.

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

"**GAAP**" means those accounting principles that are from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute.

"**Governmental Authority**" has the meaning set out in Schedule A.

"**Gross Sale Price**" or "**Gross Sale Proceeds**" means the gross sale price (inclusive of net HST, payable in respect of such Unit Sales Agreement) set out in a Unit Sales Agreement relating to the

sale of a Unit, net of any pricing incentives but excluding charges for Unit upgrades, alterations and recoveries of development charges.

“Guarantors” means the Saskin Guarantor, the Urbancorp Guarantor, the Beach Guarantor and the Riverdale Guarantor.

“Hard Costs” means, in respect of a Project Phase, amounts expended or to be expended for work, services or materials done, performed, placed or furnished in connection with Construction, all as more particularly set out in the applicable Project Budget for such Project Phase (for greater certainty, Hard Costs shall not include amounts payable pursuant to the terms of the Consultant Contracts).

“Hazardous Substance” means any substance or material that is prohibited, controlled or regulated by any Governmental Authority pursuant to Environmental Law, including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law.

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

“HST” means the harmonized sales tax (“HST”) under the *Excise Tax Act* (Canada).

“Independent Cost Consultant” means Altus Group, or such other replacement consultant appointed by the Administrative Agent.

“Interbank Reference Rate” means the interest rate expressed as a percentage *per annum* that is customarily used by the Administrative Agent when calculating interest due by it or owing to it arising from adjustments between the Administrative Agent and other Canadian chartered banks.

“Interest Payment Date” means, with respect to each Prime Rate Loan, the first Business Day of each calendar month.

“Interest Period” means:

- (i) with respect to each Prime Rate Loan, the period commencing on the applicable Drawdown Date or Conversion Date, as the case may be, and ending on the date selected by the Borrower for the Conversion of such Loan into another type of Loan or for the repayment of such Loan; and
- (ii) with respect to each Bankers’ Acceptance, the period selected by the Borrower hereunder and being of one, two or three months duration (subject to availability) commencing on the Drawdown Date, Rollover Date or Conversion Date of such Loan;

provided that in any case the last day of each Interest Period will be also the first day of the next Interest Period (provided that for the purposes of calculation of interest payable by the Borrower, the last day of each Interest Period shall not be included in such Interest Period but shall be included in the calculation of interest payable for the subsequent Interest Period) and further provided that the last day of each Interest Period will be a Business Day. If the last day of an Interest Period selected by the Borrower is not a Business Day the Borrower will be deemed to

have selected an Interest Period the last day of which is the Business Day next following the last day of the Interest Period otherwise selected unless such next following Business Day falls in the next calendar month in which event the Borrower will be deemed to have selected an Interest Period the last day of which is the Business Day next preceding the last day of the Interest Period otherwise selected and further provided that the last Interest Period hereunder must expire on or prior to the Maturity Date.

“LC Facility” has the meaning set out in Section 2.01(d).

“LC Facility Commitment” has the meaning set out in Section 2.01(d).

“LC Lender” means the Issuing Bank as set out in Schedule B.

“Lease” means any lease, sublease, agreement to lease, offer to lease, licence or right of occupation granted from time to time, by or on behalf of the Borrower entitling the lessee, sublessee or grantee thereunder to use or occupy all or any part of the Project.

“Lenders” means the Persons from time to time party to this Agreement and identified as either a Lender, the Swingline Lender or the LC Lender in Schedule B, and reference to “Lender” in this Agreement may mean that Lender in its capacity as a Lender, Swingline Lender or LC Lender, as the case may be, if the context so requires, and **“Lender”** means any one of the Lenders.

“Lenders’ Counsel” means the firm of McCarthy Tétrault LLP or such other firm of legal counsel as the Administrative Agent may from time to time designate.

“Lending Office” means, with respect to a particular Lender, the branch or office specified in Schedule B from which such Lender makes advances and to which the Administrative Agent disburses payments received for the benefit of such Lender.

“Leslieville Construction Facility” has the meaning set out in Section 2.01(a).

“Leslieville Construction Facility Commitment” has the meaning set out in Section 2.01(a).

“Leslieville Construction Schedule” means the construction schedule in respect of the Leslieville Project Phase provided to and approved by the Lenders, as it may be amended from time to time pursuant to the provisions of Section 9.03(13).

“Leslieville Credit Facilities” means the Leslieville Construction Facility and the Leslieville Swingline Facility and **“Leslieville Credit Facility”** means any one of them.

“Leslieville Deferred Costs” means Budgeted Project Costs which are to be incurred after all Obligations under the Leslieville Construction Facility has been repaid in full (or, in the case of the LC Facility, any outstanding Letters of Credit relating to the Leslieville Project Phase have been fully cash collateralized on a dollar for dollar basis.

“Leslieville Excess Sale Proceeds” means the Net Sale Proceeds from Unit sales in respect of the Leslieville Project Phase occurring after the date the Leslieville Credit Facilities have been fully repaid.

“**Leslieville Interim Revenue**” means proceeds of sale, recovery of expenses or any other Project cash flow from the Leslieville Project Phase received or anticipated while any availability exists or any Obligations remain outstanding under the Leslieville Construction Facility.

“**Leslieville Project Phase**” means the Leslieville Project Phase Lands and the 56 Unit low-rise residential development located on the Leslieville Project Phase Lands and other improvements and all landscaping and interior decoration, all plants, machinery, improvements and equipment and all other property whether free standing or otherwise, auxiliary or ancillary thereto or connected therewith or added thereto, to be constructed on, above or under the surface of the Leslieville Project Phase Lands, in each case in respect of which the Borrower have an ownership in accordance with the applicable Plans and Specifications and in accordance with the Leslieville Project Phase Budget.

“**Leslieville Project Phase Budget**” means in respect of the Leslieville Project Phase, the budget of all Project Costs which has specified a line by line itemization of Project Costs, including Contingency Amounts, as prepared by the Borrower and approved by the Lenders and the Independent Cost Consultant prior to the first Drawdown under the Credit Facilities, as amended from time to time subject to the requirements of Section 9.03(11), the Leslieville Project Phase Budget as at the date hereof being attached as Schedule 1.01(H).

“**Leslieville Project Phase Lands**” means the lands and premises comprising the Leslieville Project Phase site located at 50 Curzon Street, Toronto, Ontario and more particularly described in Schedule C hereto under the heading “Leslieville Project Phase Lands”.

“**Leslieville Swingline Facility**” has the meaning set out in Section 2.02(1).

“**Leslieville Swingline Loan**” has the meaning set out in Section 2.02(2).

“**Leslieville Undistributed Deposit Amount**” means, on any given date, the amount, if any, by which \$3,220,000 exceeds the amount of Purchaser Deposits in respect of the Leslieville Project Phase released on or before such date for application to Project Costs (with a negative result being deemed to be zero) and further provided that if at any time DBC pursuant to the terms of the DBC Agreements ceases to release Purchaser Deposits, then until such time as DBC again releases Purchaser Deposits, the Undistributed Deposit Amount shall be deemed to be zero.

“**Letter of Credit**” means a standby letter of credit or a commercial letter of credit issued or deemed to be issued by the LC Lender under the LC Facility at the request and for the account of the Borrower under this Agreement.

“**Letter of Credit Fee Rate**” means, for any period, with respect to a Letter of Credit, the percentage rate *per annum* applicable to that period as set out below the heading “Letter of Credit Fee Rate” in the definition of “Applicable Margin”.

“**Loan**” has the meaning set out in Schedule A.

“**Loan Documents**” means (a) this Agreement, (b) the Security, and (c) all present and future agreements, documents, certificates and instruments delivered by any Obligor to the Administrative Agent or the Lenders pursuant to or in respect of this Agreement or the Security, in each case as the same may from time to time be amended, and “**Loan Document**” means any one of the Loan Documents.

“Material Adverse Change” means any event or occurrence which, when considered individually or together with other events or occurrences, has a material adverse effect on (i) the business, assets, liabilities, operations, results of operations, condition (financial or other) or prospects of the Obligors, taken as a whole, (ii) the Construction and/or operation of the Project, or (iii) the ability of the Obligors to collectively perform their Obligations in all material respects.

“Material Licences” means all licences, permits or approvals issued by any Governmental Authority, or any applicable stock exchange or securities commission, to the Borrower or any of them, and which are at any time on or after the date of this Agreement,

- (i) necessary or material to the business and operations of the Project (including the Construction of the Project), the breach or default of which would result in a Material Adverse Change, other than those not required or able to be obtained until a later stage of Construction or until Substantial Completion, provided those not obtained may be reasonably expected to be received in the ordinary course of business prior to the date when required to complete the transactions provided for in the Material Project Agreements and to Construct and operate the Project; or
- (ii) designated by the Administrative Agent as a Material Licence with respect to the Project, provided that the Administrative Agent has notified the Borrower of such designation,

including, without limitation, those Material Licences listed in Schedule 1.01(E).

“Material Project Agreements” means:

- (i) any project management agreement in respect of the Project;
- (ii) the Architect Contract and the Engineering Contracts and all other Consultant Contracts that provide for aggregate payments thereunder in excess of \$500,000;
- (iii) all Construction Contracts or subcontracts that provide for aggregate payments in excess of \$500,000;
- (iv) each other operating contract with respect to the Project having a term more than one year and which contemplates payments in excess of \$500,000 per annum;
- (v) any insurance trust agreement;
- (vii) any shared facilities and/or reciprocal easement agreements;
- (viii) the Plans and Specifications and all planning approvals, permits, licences, development agreements, and other material contracts with respect to the Project designated as Material Project Agreements by the Administrative Agent from time to time, provided that the Administrative Agent has notified the Borrower of such designation,

and includes, without limitation, those listed in Schedule 1.01(E).

“Material Subsidiary” means, at any time, with respect to an Obligor, a Subsidiary of such Obligor the consolidated assets, revenue, operating profit or EBITDA of which represent 10% or more of the consolidated assets, revenue, operating profit or EBITDA of such Obligor.

“Maturity Date” means 364 days from the date of the first Drawdown Date; provided that the LC Facility is made available at the sole discretion of the LC Lender and the LC Lender may cancel or restrict availability of any unutilized portion of the LC Facility at any time and from time to time without notice or demand.

“Minimum Project Equity” means an amount of Project Equity equal to or greater than \$15,215,000 (to be composed of \$4,800,000 in cash and \$10,415,000 in land appraisal surplus).

“Net Sale Proceeds” means the Gross Sale Proceeds relating to the sale of a Unit, less all applicable sales Taxes, real estate commissions, purchaser paid extras, Purchaser Deposits, legal fees, other normal closing costs and customary adjustments for the purchase and sale of newly constructed residential condominium units in the City.

“Non BA Lender” means any Lender that is not a BA Lender.

“Non Schedule I Lenders” means those Lenders that are not banks or that are banks chartered under the *Bank Act* (Canada) and named in Schedule II or III thereto, and **“Non Schedule I Lender”** means each such Lender.

“Notional Bankers’ Acceptances” has the meaning set forth in Section 5.02(1).

“Obligations” means all obligations of the Obligors or any of them to the Administrative Agent, the Lenders, or any of them, under or in connection with this Agreement or the other Loan Documents, including all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Obligors or any of them to the Administrative Agent or the Lenders, or any of them, in any currency or remaining unpaid by the Obligors or any of them to the Administrative Agent or the Lenders, or any of them, under or in connection with this Agreement or the other Loan Documents whether arising from dealings between the Administrative Agent or the Lenders, or any of them, and the Obligors, or any of them, or from any other dealings or proceedings by which the Administrative Agent or the Lenders, or any of them, may be or become in any manner whatsoever a creditor or obligee of the Obligors or any of them pursuant to this Agreement or the other Loan Documents, and wherever incurred, and whether incurred by any Obligor alone or with another or others and whether as principal or surety, and all interest, fees, legal and other costs, charges and expenses relating thereto.

“Obligors” means, collectively, the Borrower and each of the Guarantors and **“Obligor”** means the relevant one of them, as applicable.

“Obligors’ Counsel” means Harris Sheaffer LLP or such other firm of legal counsel as one or more of the Obligors may from time to time designate and that is acceptable to the Lenders.

“Organizational Documents” means, with respect to any Person, such Person’s articles, memorandum or other charter documents, partnership agreement, joint venture agreement, declaration of trust, trust agreement, by-laws, unanimous shareholder agreement, or any and all other similar agreements, documents and instruments pursuant to which such Person is constituted, organized or governed.

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

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

“Permitted Debt” means:

- (i) Debt under this Agreement;
- (ii) amounts payable to DBC pursuant to the DBC Agreements;
- (iii) Debt secured by a Permitted Encumbrance;
- (iv) Debt that is subordinated and postponed to the Obligations pursuant to a subordination agreement satisfactory to the Lenders; and
- (iv) liabilities associated with routine Project operating expenses and required capital improvements, repairs, replacements and tenant inducements or as otherwise permitted hereunder.

“Permitted Encumbrances” means, with respect to the Project Lands, the following:

- (i) liens for Taxes, rates, assessments or other governmental charges or levies not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person, provided that, if the aggregate amount being contested is in excess of \$100,000, the Borrower shall have deposited with the Administrative Agent collateral satisfactory to the Administrative Agent to secure the payment of such Taxes and assessments;
- (ii) undetermined or inchoate liens, rights of distress and charges incidental to construction, maintenance or current operations that have not at such time been filed or exercised and of which none of the Lenders has been given notice, or that relate to obligations not due or payable, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person;
- (iii) reservations, limitations, provisos and conditions expressed in any original grant from the Crown or other grants of real or immovable property, or interests therein, that do not materially affect the use of the affected land for the purpose for which it is used by that Person;
- (iv) permits, reservations, covenants, servitudes, right of access or user licenses, easements, rights of way and rights in the nature of easements (including, without limitation, licenses, easements, rights of way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone, telecommunication, television and telegraph conduits, poles, wires and cables) that do not materially impair the use of the affected land for the purpose for which it is used by that Person, or in respect of which satisfactory arrangements have been made for relocation so that such use will not, in the aggregate, be materially and adversely impaired, or which that Person is bound to enter into pursuant to any agreement with a Governmental Authority or a counterparty to a Material Project Agreement entered into in connection with the development of the Project;

- (v) title defects, irregularities or other matters relating to title that are of a minor nature and that in the aggregate do not materially impair the use of the affected property for the purpose for which it is used by that Person;
- (vi) the right reserved to or vested in any Governmental Authority by the terms of any lease, licence, franchise, grant or permit acquired by that Person or by any statutory provision to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (vii) the Encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, employment insurance, surety or appeal bonds, costs of litigation when required by law, liens and claims incidental to current construction, mechanics', warehousemen's, carriers' and other similar liens, and public, statutory and other like obligations incurred in the ordinary course of business;
- (viii) security given to a public utility or any Governmental Authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of its business;
- (ix) the Encumbrance created by a judgment of a court of competent jurisdiction, or claim (including claims pursuant to the *Construction Lien Act* (Ontario)) filed, against that Person as long as the judgment is being contested diligently and in good faith by appropriate proceedings by that Person and does not result in an Event of Default, provided that if such judgment or claim is a construction lien or is in the aggregate greater than \$500,000, the relevant Obligor shall have either (A) in the case of any such judgment or claim that is not a construction lien, if acceptable to the Administrative Agent, deposited with the Administrative Agent collateral satisfactory to the Administrative Agent to secure the payment of such judgment or claim, or (ii) posted a payment bond, or made payment into court, of such amount as is necessary to remove such Encumbrance;
- (x) the Security;
- (xi) encroachments by the Project or structures thereon over neighbouring lands (including public streets) and minor encroachments by neighbouring lands or structures thereon over the Project Lands, so long as, in the former case, there are written agreements permitting such encroachments;
- (xii) subdivision, development, servicing and site plan agreements, undertakings and agreements made pursuant to applicable planning and development legislation, entered into with or made in favour of any Governmental Authority, or public or private utility relating to the Project Lands;
- (xiii) Leases relating to the Project Lands that have been approved by the Administrative Agent or entered into in accordance with this Agreement and notices of them;
- (xiv) all municipal by-laws and regulations and other municipal land use instruments, including, without limitation, official plans, zoning and building by-laws, restrictive covenants and other land use limitations, public or private, and other restrictions as to the use of the Project Lands;

- (xv) the DBC Mortgage, provided that the DBC Subordination Agreement has been executed and delivered by DBC;
- (xvi) any Encumbrance described in Schedule 1.01(F); and
- (xvii) such other Encumbrances as are agreed to in writing by the Required Lenders.

“Person” has the meaning set out in Schedule A.

“Plans and Specifications” means the plans and specifications pertaining to the development and construction of the Project (or in respect of a Project Phase, as applicable) prepared by or at the direction of the Borrower and as approved by the Administrative Agent and the Independent Cost Consultant, as amended from time to time pursuant to Section 9.03(12).

“Prime Rate” means the variable *per annum* reference rate of interest announced and adjusted by the Administrative Agent from time to time for Canadian Dollar loans in Canada.

“Prime Rate Loan” means a Loan in or a Conversion into Canadian Dollars made by the Lenders to the Borrower with respect to which the Borrower has specified that interest is to be calculated by reference to the Prime Rate.

“Prime Rate Margin” means, for any period, the applicable percentage rate *per annum* applicable to that period as set out below the heading “Prime Rate Margin” in the definition of “Applicable Margin”.

“Proceeds of Realization” has the meaning ascribed thereto in Section 13.07(2).

“Profit Sharing Agreement” means that certain agreement dated April 7, 2010 between, *inter alia*, the Urbancorp Guarantor and Firm Capital Corporation.

“Proforma Sale Price” means in respect of any Unit, the sale price applicable thereto as set out in Schedule 1.01(G).

“Project” means, collectively, the Leslieville Project Phase, the Riverdale Project Phase, and the Beach Project Phase.

“Project Budget” means the Leslieville Project Phase Budget, the Riverdale Project Phase Budget, and the Beach Project Phase Budget as applicable, and **“Project Budgets”** means the Leslieville Project Phase Budget, the Riverdale Project Phase Budget and the Riverdale Project Phase Budget.

“Project Costs” means, in respect of a Project Phase, the aggregate of all Hard Costs and all Soft Costs expended or to be expended to achieve Construction Completion in accordance with the Plans and Specifications and Construction Schedule applicable to such Project Phase.

“Project Equity” means, at any time and from time to time the equity of the Borrower in the Project.

“Project Lands” means the Leslieville Project Phase Lands, the Riverdale Project Phase Lands and the Beach Project Lands.

“Project Phase” means the Leslieville Project Phase, the Riverdale Project Phase or the Beach Project Phase, as the context requires, and **“Project Phases”** means each of the Leslieville Project Phase, the Riverdale Project Phase and the Beach Project Phase.

“Property” means, with respect to any Person, all or any portion of that Person’s undertaking and property, both real and personal.

“Purchaser Deposits” means deposits paid by purchasers of Units under the Unit Sales Agreements.

“Qualified Presale” means the sale of a Unit meeting the following criteria:

- (1) such sale must be pursuant to a binding and unconditional Unit Sales Agreement, a copy of which has been provided to the Administrative Agent and which is in the form of the Standard Form Sales Agreement or a form satisfactory to the Lenders;
- (2) the period in which any right of rescission or right to claim a return of a Purchaser Deposit by the purchaser under such Unit Sales Agreement and pursuant to the provisions of the Condominium Act shall have expired;
- (3) the Unit Sales Agreement in respect of such sale may not contain any provision allowing for partial or full payment of the purchase price payable thereunder by way of a vendor take back mortgage or other Debt instrument in favour of the Borrower Entities (the intent being that all net proceeds of the sale of Units shall be in the form of cash);
- (4) the Unit Sales Agreement in respect of such sale may not contain any cash flow rental guarantee or similar provision;
- (5) the closing date (meaning the occupancy date) specified in the Unit Sales Agreement must be no later than 30 months following the execution thereof by the parties;
- (6) the purchaser under such Unit Sales Agreement must:
 - (a) be a bona fide purchaser that is Arm’s Length with the Borrower and be acquiring the Unit as his/her personal residence (unless otherwise agreed to in writing by the Administrative Agent with the consent of the Required Lenders),
 - (b) be obligated to make a Purchaser Deposit of not less 10% of the Proforma Sale Price of such Unit, of which at least 5% shall have been received by the Borrower;
 - (c) not be in default of its payment obligations (including, without limitation, payments on account of the relevant Purchaser Deposit) under the Unit Sales Agreement or in respect of any mortgage commitment, and
- (7) if the purchaser either individually or in conjunction with a spouse or child (or, in the case of Persons that are not individuals, together with Affiliates thereof) is purchasing more than two Units, the sale of such Units will not be designated Qualified Presales; and

(8) all Purchaser Deposits in respect of the Leslieville Project Phase are held in trust by a lawyer, notary, real estate agent or other surety acceptable to the Lenders in accordance with the applicable Unit Sales Agreements (except those Purchaser Deposits that have been released in accordance with the terms of the DBC Agreements for application towards Project Costs in respect of the Leslieville Project Phase).

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

“Relevant Jurisdiction” means, from time to time, with respect to a Person that is granting Security hereunder, any province or territory of Canada, any state of the United States or any other country or political subdivision thereof in which such Person has its chief executive office or chief place of business or has Property that is subject to the Security and, for greater certainty, includes the provinces and states set out in Schedule 1.01(I).

“Repayment Notice” means the notice substantially in the form set out in Schedule 1.01(J).

“Required Lenders” means (i) if no Loans or Letters of Credit are outstanding under this Agreement, the Lenders holding at least 66 2/3% of the aggregate amount of Commitments, (ii) if any Loans or Letters of Credit are outstanding under this Agreement, the Lenders to which an amount in aggregate equal to at least 66 2/3% of such Loans and Letters of Credit is owed, and (iii) where there are only two Lenders, both such Lenders.

“Requirements of Environmental Law” means all requirements of the common law or of statutes, regulations, by-laws, ordinances, treaties, judgments and decrees, and (to the extent that they have the force of law) rules, policies, guidelines, orders, approvals, notices, permits, directives, and the like, of any Governmental Authority in Ontario relating to environmental or occupational health and safety matters (as they relate to exposure to a Hazardous Substance) and the assets and undertaking of such Person and the intended uses thereof in connection with such matters, including all such requirements relating to: (a) the protection, preservation or remediation of the natural environment (the air, land, surface water or groundwater); (b) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation; (c) consumer, occupational or public safety and health (as they relate to exposure to a Hazardous Substance); and (d) Hazardous Substances or conditions (matters that are prohibited, controlled or otherwise regulated, such as contaminants, pollutants, toxic substances, dangerous goods, wastes, hazardous wastes, liquid industrial wastes, hazardous materials, petroleum and other materials such as urea formaldehyde and polyurethane foam insulation, asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs) or PCB contaminated fluids or equipment, lead based paint, explosives, radioactive substances, petroleum and associated products, above ground and underground storage tanks or surface impoundments).

“Requirements of Law” means, with respect to any Person, the Organizational Documents of such Person and any Applicable Law or any determination of a Governmental Authority, in each case applicable to or binding upon such Person or any of its business or Property or to which such Person or any of its business or Property is subject.

“Riverdale Construction Facility” has the meaning set out in Section 2.01(b).

“Riverdale Construction Facility Commitment” has the meaning set out in Section 2.01(b).

“Riverdale Construction Schedule” means the construction schedule in respect of the Riverdale Project Phase provided to and approved by the Lenders, as it may be amended from time to time pursuant to the provisions of Section 9.03(13).

“Riverdale Credit Facilities” or **“Riverdale Credit Facility”** means the Riverdale Construction Facility and the Riverdale Swingline Facility.

“Riverdale Deferred Costs” means Budgeted Project Costs which are to be incurred after all Obligations under the Riverdale Construction Facility has been repaid in full (or, in the case of the LC Facility, any outstanding Letters of Credit relating to the Riverdale Project Phase have been fully cash collateralized on a dollar for dollar basis.

“Riverdale Guarantor” means Urbancorp (Riverdale) Developments Inc. .

“Riverdale Interim Revenue” means proceeds of sale, recovery of expenses or any other Project cash flow from the Riverdale Project Phase received or anticipated while any availability exists or any Obligations remain outstanding under the Riverdale Construction Facility.

“Riverdale Project Phase” means the Riverdale Project Phase Lands and the 42 Unit low-rise residential development located the Riverdale Project Phase Lands and other improvements and all landscaping and interior decoration, all plants, machinery, improvements and equipment and all other property whether free standing or otherwise, auxiliary or ancillary thereto or connected therewith or added thereto, to be constructed on, above or under the surface of the Riverdale Project Phase Lands, in each case in respect of which the Borrower have an ownership in accordance with the applicable Plans and Specifications and in accordance with the Riverdale Project Phase Budget.

“Riverdale Project Phase Budget” means in respect of the Riverdale Project Phase, the budget of all Project Costs which has specified a line by line itemization of Project Costs, including Contingency Amounts, as prepared by the Borrower and approved by the Lenders and the Independent Cost Consultant prior to the first Drawdown under the Credit Facilities, as amended from time to time subject to the requirements of Section 9.03(11), the Riverdale Project Phase Budget as at the date hereof being attached as Schedule 1.01(H).

“Riverdale Project Phase Lands” means the lands and premises comprising the Riverdale Project Phase site located at 55 Howie Street, Toronto, Ontario and more particularly described in Schedule C hereto under the heading “Riverdale Project Phase Lands”.

“Riverdale Swingline Facility” has the meaning set out in Section 2.02(1).

“Riverdale Swingline Loan” has the meaning set out in Section 2.02(2).

“Riverdale Undistributed Deposit Amount” means, on any given date, the amount, if any, by which \$2,985,000 exceeds the amount of Purchaser Deposits that have been used to fund Project Costs in respect of the Beach Project Phase.

“Rollover” means the acceptance of a Bankers’ Acceptance in like face amount upon the maturity of a Bankers’ Acceptance or the extension of a Notional Bankers’ Acceptance for an additional Interest Period.

“Rollover Date” means the date of commencement of a new Interest Period applicable to a Bankers’ Acceptance or BA Equivalent Advance that is being rolled over.

“Rollover Notice” means the notice, substantially in the form set out in Schedule 1.01(K), to be given to the Administrative Agent by the Borrower in connection with the Rollover of a Bankers’ Acceptance or BA Equivalent Advance.

“Saskin Guarantor” means Alan Saskin.

“Schedule I Lenders” means those banks that are chartered under the *Bank Act* (Canada) and named in Schedule I thereto, and **“Schedule I Lender”** means each such bank.

“Security” means the documents creating an Encumbrance in favour of, or any collateral held from time to time by, the Lenders or on behalf of the Lenders by the Administrative Agent, in each case securing or intended to secure repayment of the Obligations, including all security described in Article 10.

“Soft Costs” means all amounts expended or to be expended in respect of the Project for consultants, architects, taxes, surveys, construction insurance, bonding costs, legal fees, promotion of the Project, financing, leasing, pre-operating costs and all other costs related to the Project except Hard Costs and the cost of acquiring the Project Lands (for greater certainty, Soft Costs includes, without limitation, fees (excluding reimbursables for Hard Costs) payable pursuant to the terms of the Consultant Contracts).

“sole and absolute discretion” means in the sole, absolute and subjective discretion of the relevant Person, which discretion may be exercised unreasonably.

“Substantial Completion” means the date on which the Independent Cost Consultant is able to deliver the Certificate of Substantial Completion.

“Standard Form Sales Agreement” means the standard form agreement of purchase and sale to be utilized in respect of the sale of the Units, approved as to form by the Lenders.

“Subsidiary” means, at any time, with respect to any Person, any other Person, if at such time the first mentioned Person (i) owns, directly or indirectly, securities or other ownership interests in such other Person, having ordinary voting power to elect a majority of the board of directors or persons performing similar functions for such other Person, and (ii) directly or indirectly, through the operation of any agreement or otherwise, the ability to elect or cause the election of a majority of the board of directors or other persons performing similar functions for such other Person or otherwise exercise control over the management and policies of such other Person, and in either case will include any other Person in like relationship to a Subsidiary of such first mentioned Person.

“Swingline Account” has the meaning set out in Section 2.02(2).

“Swingline Facilities” has the meaning set out in Section 2.02(2).

“Swingline Lender” means that Lender identified from time to time as the Swingline Lender in Schedule B.

“**Swingline Loan**” means a Leslieville Swingline Loan, a Riverdale Swingline Loan or a Beach Swingline Loan, as the context requires.

“**Tarion**” means Tarion Warranty Corporation, its successors and assigns.

“**Tarion Home Warranty Program**” means the applicable warranty program operated by Tarion relating to purchasers of the Units.

“**Taxes**” has the meaning set out in Schedule A.

“**Total Commitment**” means the aggregate of the Leslieville Construction Facility Commitment, the Riverdale Construction Facility Commitment, the Beach Construction Facility Commitment, the LC Facility Commitment, and the Capital Loan Facility Commitment.

“**Unit**” means either (i) a “unit” (as defined in the Condominium Act) comprising part of the Project for use as a residence or (ii) any freehold portion of the Project (whether severed or intended to be severed) to be sold to a purchaser for use as a residence, together with the common and exclusive use interests appurtenant thereto, as applicable.

“**Unit Sales Agreements**” means purchase and sale agreements in respect of the Units.

“**Urbancorp Guarantor**” means Urbancorp Toronto Management Inc.

“**US Dollars**” and “**US \$**” mean the lawful money of The United States of America.

1.02 **Extended Meanings**

In this Agreement words importing the singular number include the plural and *vice versa*, and words importing any gender include all genders. The term “including” means “including without limiting the generality of the foregoing” and the term “third party” means any Person other than a Person who is a party to this Agreement.

1.03 **Accounting Principles**

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

(2) All calculations for the purposes of determining compliance with the financial ratios and financial covenants contained in this Agreement will be made on a basis consistent with GAAP as it exists on the date of this Agreement and used in the preparation of the financial statements of the relevant Obligor for its Fiscal Year most recently ended. In the event of a change in such GAAP, the relevant Obligor and the Administrative Agent (with the approval of the Lenders) will negotiate in good faith to revise (if appropriate) such ratios and covenants to reflect GAAP as then in effect.

1.04 **Interest Calculations and Payments**

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

1.05 **Permitted Encumbrances**

The inclusion of reference to Permitted Encumbrances in any Loan Document is not intended to subordinate and will not subordinate, any Encumbrance created by any of the Security to any Permitted Encumbrance.

1.06 **Currency**

Unless otherwise specified in this Agreement, all references to currency (without further description) are to lawful money of Canada.

1.07 **Conflicts**

In the event of a conflict between the provisions of this Agreement and the provisions of any other Loan Document, then, unless such Loan Document or an acknowledgement from the Borrower and the Administrative Agent relative to such Loan Document expressly states that this Section 1.07 is not applicable to such Loan Document, notwithstanding anything else contained in such other Loan Document, the provisions of this Agreement will prevail and the provisions of such other Loan Document will be deemed to be amended to the extent necessary to eliminate such conflict.

1.08 **Nature of Obligors' Liability**

(1) Nothing in any of the Documents shall mean, nor be construed to mean, that the recourse of the Lenders against the Borrower is anything other than full recourse with regard to its obligations hereunder, the manner and order of realization or the exercise of remedies hereunder or under the Security.

(2) The obligations of each Lender and the Administrative Agent under this Agreement are several. The failure of any Lender to carry out its obligations hereunder shall not relieve the other Lenders, the Administrative Agent or the Borrower of any of their respective obligations hereunder.

(3) Neither the Administrative Agent nor any Lender shall be responsible for the obligations of any other Lender hereunder.

1.09 **Schedules**

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

Schedule A	-	Model Credit Agreement Provisions
Schedule B	-	Lenders and Commitments
Schedule C	-	Legal Description of Project Lands
Schedule 1.01(A)	-	Compliance Certificate
Schedule 1.01(B)	-	Consultant Contracts
Schedule 1.01(C)	-	Conversion Notice
Schedule 1.01(D)	-	Drawdown Notice
Schedule 1.01(E)	-	Material Licences and Material Project Agreements
Schedule 1.01(F)	-	Additional Permitted Encumbrances
Schedule 1.01(G)	-	Proforma Sale Prices
Schedule 1.01(H)	-	Current Project Budgets
Schedule 1.01(I)	-	Relevant Jurisdictions
Schedule 1.01(J)	-	Repayment Notice
Schedule 1.01(K)	-	Rollover Notice
Schedule 8.01(13)	-	Ownership Structure
Schedule 9.02(3)(a)	-	Project Status Certificate
Schedule 9.02(3)(e)	-	Project Consultant's Certificate

ARTICLE 2 - THE CREDIT FACILITIES

2.01 Credit Facilities

Subject to the terms and conditions of this Agreement, the Lenders establish in favour of the Borrower:

- (a) a term construction facility in respect of the Leslieville Project Phase (the "**Leslieville Construction Facility**"), including, as a sub-facility thereof, the Leslieville Swingline Facility, in an amount up to Cdn. \$21,124,985 or such lesser amount pursuant to this Agreement (the "**Leslieville Construction Facility Commitment**"), which facility, other than the Leslieville Swingline Facility, is non-revolving. If the first advance under the Leslieville Construction Facility does not occur before September 30, 2012, the Lenders may, at their sole discretion, cancel the Leslieville Construction Facility and will thereafter have no obligation to make Drawdowns thereunder. In addition, at any time after September 30, 2013 or such later date as may be agreed to by the Lenders any unutilized portion of the Leslieville Construction Facility Commitment may be cancelled by the Lenders in their sole and absolute discretion;
- (b) a term construction facility in respect of the Riverdale Project Phase (the "**Riverdale Construction Facility**"), including, as a sub-facility thereof, the Riverdale Swingline Facility, in an amount up to Cdn. \$18,560,460 or such lesser amount pursuant to this Agreement (the "**Riverdale Construction Facility Commitment**"), which facility, other than the Riverdale Swingline Facility, is non-revolving. If the first advance under the Riverdale Construction Facility does not occur before September 30, 2012, the Lenders may, at their sole discretion, cancel the Riverdale Construction Facility and will thereafter have no obligation to make Drawdowns thereunder. In addition, at any time after September 30, 2013 or such later date as may be agreed to by the Lenders any unutilized portion of the Riverdale

Construction Facility Commitment may be cancelled by the Lenders in their sole and absolute discretion;

- (c) a term construction facility in respect of the Beach Project Phase (the “**Beach Construction Facility**” and together with the Leslieville Construction Facility and the Riverdale Construction Facility, the “**Construction Facilities**”), including, as a sub-facility thereof, the Beach Swingline Facility, in an amount up to Cdn. \$17,967,395 or such lesser amount pursuant to this Agreement (the “**Beach Construction Facility Commitment**”), which facility, other than the Beach Swingline Facility, is non-revolving. If the first advance under the Beach Construction Facility does not occur before September 30, 2012, the Lenders may, at their sole discretion, cancel the Beach Construction Facility and will thereafter have no obligation to make Drawdowns thereunder. In addition, at any time after September 30, 2013 or such later date as may be agreed to by the Lenders any unutilized portion of the Beach Construction Facility Commitment may be cancelled by the Lenders in their sole and absolute discretion; and
- (d) a demand revolving letter of credit facility (the “**LC Facility**”) in an amount up to Cdn. \$3,000,000 (the “**LC Facility Commitment**”). The LC Facility is made available at the sole discretion of the LC Lender and the LC Lender may cancel or restrict availability of any unutilized portion of the LC Facility at any time and from time to time without notice or demand;
- (e) a capital loan facility (the “**Capital Loan Facility**”) in an amount up to Cdn. \$2,500,000 (the “**Capital Loan Facility Commitment**”), which is non-revolving.

2.02 Swingline Facility

(1) Subject to the terms and conditions of this Agreement, the Swingline Lender establishes in favour of the Borrower a revolving term facility that is part of the Leslieville Construction Facility (the “**Leslieville Swingline Facility**”), a revolving term facility that is part of the Riverdale Construction Facility (the “**Riverdale Swingline Facility**”) and a revolving term facility that is part of the Beach Construction Facility (the “**Beach Swingline Facility**”) on the terms set forth in this Section 2.02 (the Leslieville Swingline Facility, the Riverdale Swingline Facility and the Beach Swingline Facility being, together, the “**Swingline Facilities**” and each being a “**Swingline Facility**”) up to the amounts specified in Sections 2.02(6) and (7), respectively. Subject to the terms and conditions hereof, the Borrower may increase or decrease the amount of Obligations outstanding under the Swingline Facilities by making Drawdowns, repayments and further Drawdowns.

(2) Subject to Section 2.02(3), the Borrower will be entitled to draw cheques on its Cdn. Dollar chequing account maintained from time to time with the Swingline Lender at the Lending Office of the Swingline Lender specified in Schedule B (or such other accounts with the Swingline Lender at such other Lending Office of the Swingline Lender as may be agreed upon by the Swingline Lender and the Borrower from time to time) (the “**Swingline Account**”). The debit balance from time to time in any such account will be deemed to be a Prime Rate Loan outstanding to the Borrower from the Swingline Lender under the applicable Construction Facility. A Prime Rate Loan from the Swingline Lender as contemplated by this Section 2.02(2), prior to such time as such Loan is repaid as contemplated by Section 2.02(9), or purchased as contemplated by Section 2.02(11), is referred to as a “**Swingline Loan**”.

(3) Drawdowns under the Leslieville Swingline Facility may be made in circumstances in which the requirements of Sections 3.04(b), 3.04(c) and 3.04(d) are met, but without complying with the remainder of Section 3.04 or Section 2.05. Upon the making of each Drawdown under the Leslieville Swingline Facility, the Borrower will be deemed to have represented and warranted to the Administrative Agent and the Lenders by making such Drawdown that, at the date of such Drawdown, all of the requirements of Sections 3.04(b), 3.04(c) and 3.04(d) have been met.

(4) Drawdowns under the Riverdale Swingline Facility may be made in circumstances in which the requirements of Sections 3.05(b), 3.05(c) and 3.05(d) are met, but without complying with the remainder of Section 3.05 or Section 2.05. Upon the making of each Drawdown under the Riverdale Swingline Facility, the Borrower will be deemed to have represented and warranted to the Administrative Agent and the Lenders by making such Drawdown that, at the date of such Drawdown, all of the requirements of Sections 3.05(b), 3.05(c) and 3.05(d) have been met.

(5) Drawdowns under the Beach Swingline Facility may be made in circumstances in which the requirements of Sections 3.06(b), 3.06(c) and 3.06(d) are met, but without complying with the remainder of Section 3.06 or Section 2.05. Upon the making of each Drawdown under the Beach Swingline Facility, the Borrower will be deemed to have represented and warranted to the Administrative Agent and the Lenders by making such Drawdown that, at the date of such Drawdown, all of the requirements of Sections 3.06(b), 3.06(c) and 3.06(d) have been met.

(6) The outstanding Cdn. Dollar amount of all Leslieville Swingline Loans at any time may not exceed the lesser of

- (a) Cdn. \$250,000, and
- (b) the amount, if any, by which the Leslieville Construction Facility Commitment at such time exceeds the Cdn. Dollar amount of all Loans (other than Leslieville Swingline Loans) outstanding at such time under the Leslieville Construction Facility.

(7) The outstanding Cdn. Dollar amount of all Riverdale Swingline Loans at any time may not exceed the lesser of

- (a) Cdn. \$250,000, and
- (b) the amount, if any, by which the Riverdale Construction Facility Commitment at such time exceeds the Cdn. Dollar amount of all Loans (other than Leslieville Swingline Loans) outstanding at such time under the Riverdale Construction Facility.

(8) The outstanding Cdn. Dollar amount of all Beach Swingline Loans at any time may not exceed the lesser of

- (a) Cdn. \$250,000, and
- (b) the amount, if any, by which the Beach Construction Facility Commitment at such time exceeds the Cdn. Dollar amount of all Loans (other than Beach Swingline Loans) outstanding at such time under the Beach Construction Facility.

(9) Leslieville Swingline Loans, Riverdale Swingline Loans and Beach Swingline Loans may be repaid at any time without notice by deposits to the Swingline Account and, in any case,

shall be reduced in full by the proceeds of the next Drawdown made under the Leslieville Construction Facility, the Riverdale Constriction Facility, or the Beach Constriction Facility, as applicable.

(10) At any time and from time to time in its discretion, the Swingline Lender may (but will not be obliged to) deliver a written notice to the Administrative Agent (which will thereupon deliver a similar notice to each of the Lenders) and to the Borrower requiring repayment of a Swingline Loan. The Borrower will be deemed to have given at such time a Drawdown Notice to the Administrative Agent requesting Prime Rate Loans under the applicable Construction Facility in an aggregate amount equal to the amount of such Swingline Loan. The Lenders will thereupon (irrespective of whether any condition precedent to a Loan has been satisfied, whether the amount of such Loan to be made available under the applicable Construction Facility is less than, equal to or more than the minimum amount of a Loan required to be included in a Loan constituting such type of Loan under this Agreement, whether any Default or Event of Default has occurred or is continuing or whether any acceleration or enforcement action (including any termination of the Credit Facilities and the Commitments) has occurred or commenced under any of the Loan Documents or otherwise or whether the applicable Maturity Date has occurred) make such Prime Rate Loan under the applicable Construction Facility and the Administrative Agent will apply the proceeds thereof in repayment of such Swingline Loan. The Administrative Agent will promptly notify the Borrower of any such Prime Rate Loans, and the Borrower will accept each such Prime Rate Loan and hereby irrevocably authorizes and directs the Administrative Agent to apply the proceeds thereof in payment of the applicable Swingline Loan.

(11) Without limiting the provisions of Sections 2.02(9) and (10), on the Maturity Date (as applicable), or if an Event of Default has occurred and is continuing, each of the Lenders, other than the Swingline Lender, will purchase from the Swingline Lender, and the Swingline Lender will sell to such Lenders, for cash, at par, without representation or warranty from or recourse against the Swingline Lender (and irrespective of whether any condition precedent to a Loan has been satisfied, any Default has occurred or is continuing or whether any acceleration or enforcement action (including any termination of the Credit Facilities and the Commitments) has occurred or commenced under any of the Loan Documents or otherwise or whether the Maturity Date has occurred), on a *pro rata* basis, an undivided interest in all Swingline Loans then outstanding. The Administrative Agent, upon consultation with the applicable Lenders, will have the power to settle any documentation required to evidence any such purchase and, if deemed advisable by the Administrative Agent, to execute any document as attorney for any Lender in order to complete any such purchase. The Borrower and the Lenders acknowledge that the foregoing arrangements are to be settled by the Lenders among themselves, and the Borrower expressly consent to the foregoing arrangements between such Lenders.

(12) Each of the Lenders will indemnify and save harmless the Swingline Lender on a *pro rata* basis against all liabilities, obligations, losses, damages, penalties, actions, judgements, suits, costs, expenses, payments or disbursements of any kind or nature whatsoever that may be imposed on, incurred by or asserted against the Swingline Lender in any way related to or arising out of any Swingline Loan made by the Swingline Lender (except for any such liabilities to the extent that they result from the gross negligence or wilful misconduct of the Swingline Lender).

(13) Except for Swingline Loans or advances under the Swingline Facilities, as the case may be, which shall be requested only from the Swingline Lender, the Borrower agrees to request through the Administrative Agent any Drawdown under the Credit Facilities from the Lenders *pro rata* in all respects according to their respective *pro-rata* commitments as detailed in Schedule B and the Lenders agree to make each such Credit Facilities available to the Borrower, through the

Administrative Agent, pro-rata in all respects according to their respective pro-rata commitments. A Lender shall not be responsible for the pro-rata commitment of any other Lender. Without prejudice to the rights of the Borrower against a defaulting Lender, the failure or incapacity of a Lender to make available its pro-rata share of a Drawdown to the Borrower in accordance with its obligations under this Agreement does not release the other Lenders from their obligations. For greater certainty, in order to establish the pro rata share of each Lender in a Drawdown made under a Construction Facility (other than a Swingline Loan) (a "Syndicate Advance"), the Administrative Agent shall assume that the maximum applicable Swingline Facility in respect of such Construction Facility amount is fully drawn and, accordingly, the pro rata share of a Lender in a Syndicate Advance shall be adjusted to take into account that the Administrative Agent assumes the full amount of the applicable Swingline Facility is fully drawn at all times.

2.03 Purpose of Credit Facilities

Loans made, and Letters of Credit issued, under the Credit Facilities will only be used for the following respective purposes:

- (a) under the Leslieville Construction Facility, to finance the Construction of the Leslieville Project Phase;
- (b) under the Leslieville Swingline Facility, to temporarily finance the Construction of the Leslieville Project Phase pending repayment from monthly progress advances under the Leslieville Construction Facility;
- (c) under the Riverdale Construction Facility, to finance the Construction of the Riverdale Project Phase;
- (d) under the Riverdale Swingline Facility, to temporarily finance the Construction of the Riverdale Project Phase pending repayment from monthly progress advances under the Riverdale Construction Facility;
- (e) under the Beach Construction Facility, to finance the Construction of the Beach Project Phase;
- (f) under the Beach Swingline Facility, to temporarily finance the Construction of the Beach Project Phase pending repayment from monthly progress advances under the Beach Construction Facility;
- (g) under the LC Facility, to provide Letters of Credit to Governmental Authorities or for other obligations of the Borrower relating to the Construction of the Project as provided for in the Project Budget;
- (h) under the Capital Loan Facility, to provide assistance to the Borrower in repaying a profit sharing obligation in connection with the acquisition of the Leslieville Project Lands pursuant to the Profit Sharing Agreement.

2.04 Manner of Borrowing

(1) The Borrower may, in Canadian Dollars, make Drawdowns and Conversions of Prime Rate Loans, and Conversions and Rollovers of Bankers' Acceptances and BA Equivalent Advances, under the Construction Facility. For greater clarity, the Borrower may only make

Drawdowns under the Construction Facilities by way of Prime Rate Loans, which Loans may subsequently be converted into Bankers' Acceptances and BA Equivalent Advances in accordance with the terms hereof.

(2) The Borrower may, in Canadian Dollars, make Drawdowns of Letters of Credit under the LC Facility.

2.05 **Drawdowns, Conversions and Rollovers**

(1) Subject to the provisions of this Agreement, the Borrower may (a) make Drawdowns hereunder, (b) convert the whole or any part of any type of Loan into any other type of Loan, or (c) roll over any Bankers' Acceptance or BA Equivalent Advance on the last day of the applicable Interest Period therefor, by giving the Administrative Agent a Drawdown Notice, Conversion Notice or Rollover Notice, as the case may be.

(2) The Borrower must give the Administrative Agent a Drawdown Notice, Conversion Notice or Rollover Notice, as the case may be, three Business Days prior to the proposed Drawdown Date, and one Business Day prior to the proposed Conversion Date or Rollover Date, as the case may be. A Drawdown Date, Conversion Date and Rollover Date must be a Business Day.

(3) Each Drawdown Notice, Conversion Notice or Rollover Notice, as the case may be, must be delivered to the Administrative Agent by the Borrower on or prior to 11:00 a.m. (Toronto time) on a Business Day.

(4) Each Drawdown, Conversion or Rollover must:

- (a) in the case of Prime Rate Loans, be in a minimum principal amount of Cdn. \$1,000,000 and increments of Cdn. \$100,000; and
- (b) in the case of Bankers' Acceptances, be in a minimum face amount of Cdn. \$1,000,000 and increments of Cdn. \$100,000.

(5) Unless otherwise agreed to by the Lenders, the Borrower will not be entitled to make Drawdowns more than once each calendar month.

(6) The provisions of Sections 2.05(1), (2), (3), (4) and (5) do not apply to Swingline Loans.

(7) In determining a Lender's proportionate share of a request for Bankers' Acceptances, the Administrative Agent, in its sole discretion, shall be entitled to round the face amount of any Bankers' Acceptance to be accepted by a BA Lender or BA Equivalent Advance to be accepted by a Non BA Lender to the nearest \$1,000.

2.06 **Administrative Agent's Obligations with Respect to Loans**

Upon receipt of a Drawdown Notice, Conversion Notice or Rollover Notice, as the case may be, the Administrative Agent will forthwith notify the Lenders of the proposed Drawdown Date, Conversion Date or Rollover Date, as the case may be, of each Lender's Applicable Percentage of such Loan or Letter of Credit, as the case may be, and, if applicable, the account of the Administrative Agent to which each Lender's Applicable Percentage is to be credited.

2.07 **Lenders' and Administrative Agent's Obligations with Respect to Loans**

Each Lender will, prior to 11:00 a.m. (Toronto time) on the Drawdown Date, Conversion Date or Rollover Date, as the case may be, specified by the Borrower in a Drawdown Notice, Conversion Notice or Rollover Notice, as the case may be, credit the Administrative Agent's account specified in the Administrative Agent's notice given under Section 2.06 with such Lender's Applicable Percentage of any Loan to be advanced thereunder and by 11:00 a.m. (Toronto time) on the same date the Administrative Agent will advance to the Borrower the full amount of the amounts so credited.

2.08 **Irrevocability**

Each Drawdown Notice, Conversion Notice and Rollover Notice given by the Borrower hereunder is irrevocable and will oblige the Borrower to take the action contemplated on the date specified therein.

2.09 **Account of Record**

The Administrative Agent will open and maintain books of account evidencing all Loans, Letters of Credit and all other amounts owing by the Borrower to the Lenders hereunder. The Administrative Agent will enter in the foregoing accounts details of all amounts from time to time owing, paid or repaid by the Borrower hereunder. The information entered in the foregoing accounts will, in the absence of manifest error, constitute prima facie evidence of the obligations of the Borrower to the Lenders hereunder with respect to all Loans, Letters of Credit and all other amounts owing by the Borrower to the Lenders hereunder. After a request by the Borrower, the Administrative Agent will promptly advise the Borrower of such entries made in the Administrative Agent's books of account.

2.10 **Interest on Excess Loans, Unpaid Costs and Expenses**

Unless the payment of interest is otherwise specifically provided for herein, where the Borrower fails to pay any amount required to be paid by them hereunder when due having received notice that such amount is due (including, without limitation, the portion of any Loan made under a Credit Facility hereunder that exceeds the applicable Construction Facility Commitment or Letter of Credit Facility Commitment), the Borrower shall pay interest on such unpaid amount from the time such amount is due until paid at an annual rate equal to the Prime Rate plus 5.0% per annum.

ARTICLE 3 - DISBURSEMENT CONDITIONS

3.01 **Conditions Precedent to First Drawdown – Leslieville Credit Facilities**

The obligation of each Lender to make the first advance hereunder by way of a Loan under the Leslieville Credit Facilities is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice by the time required under Section 2.05(2) and (3);

- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance;
- (d) a Material Adverse Change will not have occurred and be existing;
- (e) the Administrative Agent will have received certified copies of the Organizational Documents of each Obligor, the resolutions authorizing the execution and delivery of, and performance of each of the Obligors' respective obligations under the Loan Documents and the transactions contemplated herein, and a certificate as to the incumbency of the officers of the Obligors executing the Loan Documents and any other documents to be provided pursuant to the provisions hereof;
- (f) except as otherwise agreed by the Administrative Agent, certificates of status or comparable certificates for all Relevant Jurisdictions of each Obligor will have been delivered to the Administrative Agent;
- (g) the Independent Cost Consultant shall have been appointed to act on behalf of the Administrative Agent and the Lenders throughout the duration of the Leslieville Project Phase at the Borrower's expense;
- (h) the Lenders will have completed their due diligence with respect to the Obligors and the Leslieville Project Phase, and will have received all financial, corporate and other information requested by any Lender or the Administrative Agent, including receipt and review of:
 - (i) the most recent financial statements of the Urbancorp Guarantor (including the annual financial statements required pursuant to Section 9.02(1) for the Fiscal Year most recently ended) and the most recent personal net worth statement of the Saskin Guarantor;
 - (ii) all Material Project Agreements for the Leslieville Project Phase (including, without limitation, satisfactory review and approval by the Lenders of all of the Consultants retained in connection with the Leslieville Project Phase and all Contractors retained in connection with those Material Project Agreements described in paragraph (b) of the definition of Material Project Agreements);
 - (iii) all Permitted Encumbrances, including all Leases, for the Leslieville Project Phase;
 - (iv) a certificate from the City or a copy of the relevant tax bill issued by the City and evidence of payment thereof satisfactory to the Administrative Agent and Lenders, evidencing that realty Taxes levied against the Leslieville Project Lands are current;
 - (v) a Phase I environmental report, a Phase II environmental report and a record of site condition or other environmental reporting evidencing that the Leslieville Project Phase is in compliance with all Environmental Law, which

must be addressed to the Administrative Agent or accompanied by a letter from the environmental consultant addressed to the Administrative Agent that permits the Administrative Agent to rely on such reports;

- (vi) a report from an engineer acceptable to the Administrative Agent (which must be addressed to the Administrative Agent or accompanied by a letter from the engineer that permits the Administrative Agent to rely on such report) confirming the feasibility of constructing the Leslieville Project Phase on the Leslieville Project Phase Lands, including, without limitation, that the soil conditions of the Leslieville Project Phase Lands are satisfactory for Construction and that the existing parking structure is satisfactory and has been completed in all material respects in accordance with the plans and specifications therefor;
- (vii) the Leslieville Project Phase Budget, the Plans and Specifications in respect of the Leslieville Project Phase and the Leslieville Construction Schedule;
- (viii) a Project status certificate in respect of the Leslieville Project Phase from a senior officer of the Borrower substantially in the form of Schedule 9.02(3)(a) signed in accordance with the Administrative Agent's current account authorities;
- (ix) a Project consultant's certificate in respect of the Leslieville Project Phase substantially in the form of Schedule 9.02(3)(e) signed by the Independent Cost Consultant;
- (x) except where the Administrative Agent will be an addressee of the relevant reports, an acknowledgement from the Independent Cost Consultant and any other Consultants which will be providing Certificates of Substantial Performance in respect of any portion of Construction for the purposes of the *Construction Lien Act (Ontario)*, that the Administrative Agent, the Lenders and the Independent Cost Consultant will be relying on the reports and certificates provided by the Independent Cost Consultant and that they are entitled to do so;
- (xi) Performance and Payment bonds in respect of the Leslieville Project Phase, if any, required by the Required Lenders with the recommendation of the Independent Cost Consultant;
- (xii) a current Survey of the Leslieville Project Phase Lands prepared by an accredited Ontario Land Surveyor showing the boundaries, areas and dimensions of the Leslieville Project Phase Lands, the location of the buildings and structures, if any, situate thereon and the location of encroachments, easements or rights of way, together with a draft prepared by such Surveyor showing the proposed location of the improvements to be constructed on the Leslieville Project Phase Lands;
- (xiii) evidence satisfactory to the Lenders that the Borrower' insurance in respect of the Leslieville Project Phase is satisfactory and complies with this Agreement;

- (xiv) all existing or draft Condominium Documents for the Leslieville Project Phase, which shall include the Disclosure Statement;
- (xv) the Standard Form Sales Agreement for the Leslieville Project Phase;
- (xvi) a schedule of pre-sales for the Leslieville Project Phase, including purchaser name and current address, unit number of the Unit being acquired, asking price, sale price, deposit status (including location of deposit, amount paid to date and amount and timing of deposit yet to be paid), closing date and any special conditions;
- (xvii) copies of all existing Unit Sales Agreements for the Leslieville Project Phase;
- (xviii) evidence satisfactory to the Lenders that:
 - (A) the aggregate of the Gross Sale Prices under the then existing Unit Sales Agreements for the Project that constitute Qualified Presales is not less than \$82,000,000 (excluding charges for unit upgrades, alterations and recoveries of development charges);
 - (B) a minimum of \$3,220,000 of Purchaser Deposits in respect of the Leslieville Project Phase Project been received and are available to the Borrower to fund Project Costs in respect of the Leslieville Project Phase;
 - (C) fixed price contracts for a minimum of 40% of the Hard Costs of the Leslieville Project Phase have been entered into;
- (xix) to the extent available, current site plans, floor plans and any current market survey materials relating to the Leslieville Project Phase not previously provided to the Administrative Agent or the Lenders;
- (xx) the DBC Agreements and the DBC Mortgage;
- (xxi) the Tarion bond with respect to Purchaser Deposits in respect of the Leslieville Project Phase and evidence that the Leslieville Project Phase is registered with Tarion Warranty Corporation and is in good standing;
- (xxii) any project management agreement for the Leslieville Project Phase;
- (xxiii) all subdivision, servicing, development, site plan and similar agreements with Governmental Authorities that are required in order to ensure the completion or delivery of possession of the Leslieville Project Phase;
- (xxiv) any other documents related to the Leslieville Project Phase that any Lender deems necessary, including, without limitation, pro-forma offer to purchase documentation, purchaser directed upgrades, permits and development, regulatory and zoning approvals; and
- (xxv) evidence that Material Leslieville Project Phase Agreements relating to the Construction of the Leslieville Project Phase and the grant of necessary

rights (including, without limitation, crane swing and shoring) by adjacent property owners, to the extent necessary, have been executed by all counterparties thereto;

and the results of such due diligence will be satisfactory to the Lenders in their sole discretion;

- (i) except as otherwise agreed by the Administrative Agent, the Administrative Agent will have received certified copies of all shareholder approvals and true copies of all regulatory, governmental and other approvals, if any, required in order for the Obligors to enter into this Agreement and to perform their obligations hereunder;
- (j) all releases, discharges and postponements that are required in the discretion of the Administrative Agent (in registrable form where necessary) with respect to all Encumbrances affecting the collateral Encumbered by the Security that are not Permitted Encumbrances, if any, will have been delivered to the Administrative Agent;
- (k) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees and expenses (including the fees and disbursements of the Lenders' Counsel) payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (l) duly executed copies of the Security and all other Loan Documents and deliveries in connection therewith (including, without limitation, the DBC Subordination Agreement) will have been delivered to the Administrative Agent and all such Loan Documents will have been duly registered, filed and recorded in all Relevant Jurisdictions where required by Applicable Law or where the Administrative Agent considers it necessary, in its sole discretion, to do so;
- (m) a currently dated letter of opinion of Obligors' Counsel as to such matters and in such form as Lenders' Counsel and Obligors' Counsel may agree, each acting reasonably, addressed to the Administrative Agent, the Lenders and to Lenders' Counsel will have been delivered to the Administrative Agent;
- (n) the Administrative Agent shall have received a title opinion (which shall include a report as to off-title matters) from Borrower's Counsel dated on or prior to the Drawdown Date and confirming, among other things, that (i) the Borrower has good and marketable title to the Leslieville Project Phase, subject only to Permitted Encumbrances, and (ii) the Debenture constitutes a good and valid first charge on the Leslieville Project Phase Lands, subject only to Permitted Encumbrances;
- (o) after giving effect to the Drawdown:
 - (i) the Cost to Complete for the Leslieville Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Leslieville Construction Facility, (B) Leslieville Deferred Costs (to a maximum amount of \$1,122,800) in respect of the Leslieville Project Phase, (C) the Undistributed Deposit Amount in respect of the Leslieville Project Phase, and (D) Leslieville Interim Revenue; and

- (ii) the aggregate principal amount of all Loans outstanding under the Leslieville Construction Facility shall not exceed the lesser of: (A) the Leslieville Construction Facility Commitment, and (B) the Costs-In-Place Margin applicable to the Leslieville Project Phase;
- (p) the Administrative Agent shall have received all other reports and deliveries required hereunder for the period prior to such Drawdown Date;
- (q) there shall not have occurred or come into effect any event or financial occurrence which, in the reasonable opinion of the Lenders, disrupts or adversely affects, or may disrupt or adversely affect, the state of financial, banking or capital markets in Canada;
- (r) the Administrative Agent shall have received an appraisal satisfactory to it indicating a minimum combined market value of \$31,890,000 for the Project Lands;
- (s) the Administrative Agent shall have received evidence satisfactory that at least \$8,161,000 of Purchaser Deposits have been received by the Borrower (or its trustee) and are available to the Borrower to fund Project Costs, whereby any shortfall in such amount may be made up by additional equity in the Project contributed by the Obligors (and evidence satisfactory to the Administrative Agent must be delivered in respect of such equity contribution);
- (t) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (u) such first advance must have occurred no later than September 30, 2012,

provided that all documents delivered pursuant to this Section 3.01 must be in full force and effect, and in form and substance satisfactory to the Lenders, acting reasonably.

3.02 Conditions Precedent to First Drawdown – Riverdale Credit Facilities

The obligation of each Lender to make the first advance hereunder by way of a Loan under the Riverdale Credit Facilities is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice by the time required under Section 2.05(2) and (3);
- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance;
- (d) a Material Adverse Change will not have occurred and be existing;
- (e) the Administrative Agent will have received certified copies of the Organizational Documents of each Obligor, the resolutions authorizing the execution and delivery of, and performance of each of the Obligors' respective obligations under the Loan

Documents and the transactions contemplated herein, and a certificate as to the incumbency of the officers of the Obligors executing the Loan Documents and any other documents to be provided pursuant to the provisions hereof;

- (f) except as otherwise agreed by the Administrative Agent, certificates of status or comparable certificates for all Relevant Jurisdictions of each Obligor will have been delivered to the Administrative Agent;
- (g) the Independent Cost Consultant shall have been appointed to act on behalf of the Administrative Agent and the Lenders throughout the duration of the Riverdale Project Phase at the Borrower's expense;
- (h) the Lenders will have completed their due diligence with respect to the Obligors and the Riverdale Project Phase, and will have received all financial, corporate and other information requested by any Lender or the Administrative Agent, including receipt and review of:
 - (i) the most recent financial statements of the Urbancorp Guarantor and the Riverdale Guarantor (including the annual financial statements required pursuant to Section 9.02(1) for the Fiscal Year most recently ended) and the most recent personal net worth statement of the Saskin Guarantor;
 - (ii) all Material Project Agreements for the Riverdale Project Phase (including, without limitation, satisfactory review and approval by the Lenders of all of the Consultants retained in connection with the Riverdale Project Phase and all Contractors retained in connection with those Material Project Agreements described in paragraph (b) of the definition of Material Project Agreements);
 - (iii) all Permitted Encumbrances, including all Leases, for the Riverdale Project Phase;
 - (iv) a certificate from the City or a copy of the relevant tax bill issued by the City and evidence of payment thereof satisfactory to the Administrative Agent and Lenders, evidencing that realty Taxes levied against the Riverdale Project Lands are current;
 - (v) a Phase I environmental report, a Phase II environmental report and a record of site condition or other environmental reporting evidencing that the Riverdale Project Phase is in compliance with all Environmental Law, which must be addressed to the Administrative Agent or accompanied by a letter from the environmental consultant addressed to the Administrative Agent that permits the Administrative Agent to rely on such reports;
 - (vi) a report from an engineer acceptable to the Administrative Agent (which must be addressed to the Administrative Agent or accompanied by a letter from the engineer that permits the Administrative Agent to rely on such report) confirming the feasibility of constructing the Riverdale Project Phase on the Riverdale Project Phase Lands, including, without limitation, that the soil conditions of the Riverdale Project Phase Lands are satisfactory for Construction and that the existing parking structure is satisfactory and has

- been completed in all material respects in accordance with the plans and specifications therefor;
- (vii) the Riverdale Project Phase Budget, the Plans and Specifications in respect of the Riverdale Project Phase and the Riverdale Construction Schedule;
 - (viii) a Project status certificate in respect of the Riverdale Project Phase from a senior officer of the Borrower substantially in the form of Schedule 9.02(3)(a) signed in accordance with the Administrative Agent's current account authorities;
 - (ix) a Project consultant's certificate in respect of the Riverdale Project Phase substantially in the form of Schedule 9.02(3)(e) signed by the Independent Cost Consultant;
 - (x) except where the Administrative Agent will be an addressee of the relevant reports, an acknowledgement from the Independent Cost Consultant and any other Consultants which will be providing Certificates of Substantial Performance in respect of any portion of Construction for the purposes of the *Construction Lien Act* (Ontario), that the Administrative Agent, the Lenders and the Independent Cost Consultant will be relying on the reports and certificates provided by the Independent Cost Consultant and that they are entitled to do so;
 - (xi) Performance and Payment bonds in respect of the Riverdale Project Phase, if any, required by the Required Lenders with the recommendation of the Independent Cost Consultant;
 - (xii) a current Survey of the Riverdale Project Phase Lands prepared by an accredited Ontario Land Surveyor showing the boundaries, areas and dimensions of the Riverdale Project Phase Lands, the location of the buildings and structures, if any, situate thereon and the location of encroachments, easements or rights of way, together with a draft prepared by such Surveyor showing the proposed location of the improvements to be constructed on the Riverdale Project Phase Lands;
 - (xiii) evidence satisfactory to the Lenders that the Borrower's insurance in respect of the Riverdale Project Phase is satisfactory and complies with this Agreement;
 - (xiv) the Standard Form Sales Agreement for the Riverdale Project Phase;
 - (xv) a schedule of pre-sales for the Riverdale Project Phase, including purchaser name and current address, unit number of the Unit being acquired, asking price, sale price, deposit status (including location of deposit, amount paid to date and amount and timing of deposit yet to be paid), closing date and any special conditions;
 - (xvi) copies of all existing Unit Sales Agreements for the Riverdale Project Phase;
 - (xvii) evidence satisfactory to the Lenders that:

- (A) the aggregate of the Gross Sale Prices under the then existing Unit Sales Agreements for the Project that constitute Qualified Presales is not less than \$82,000,000 (excluding charges for unit upgrades, alterations and recoveries of development charges);
 - (B) a minimum of \$2,985,000 of Purchaser Deposits in respect of the Riverdale Project Phase Project been received and are available to the Borrower to fund Project Costs in respect of the Riverdale Project Phase;
 - (C) fixed price contracts for a minimum of 40% of the Hard Costs of the Riverdale Project Phase have been entered into;
- (xviii) to the extent available, current site plans, floor plans and any current market survey materials relating to the Riverdale Project Phase not previously provided to the Administrative Agent or the Lenders;
 - (xix) evidence that the Riverdale Project Phase is registered with Tarion Warranty Corporation and is in good standing;
 - (xx) any project management agreement for the Riverdale Project Phase;
 - (xxi) all subdivision, servicing, development, site plan and similar agreements with Governmental Authorities that are required in order to ensure the completion or delivery of possession of the Riverdale Project Phase;
 - (xxii) any other documents related to the Riverdale Project Phase that any Lender deems necessary, including, without limitation, pro-forma offer to purchase documentation, purchaser directed upgrades, permits and development, regulatory and zoning approvals; and
 - (xxiii) evidence that Material Riverdale Project Phase Agreements relating to the Construction of the Riverdale Project Phase and the grant of necessary rights (including, without limitation, crane swing and shoring) by adjacent property owners, to the extent necessary, have been executed by all counterparties thereto;

and the results of such due diligence will be satisfactory to the Lenders in their sole discretion;

- (i) except as otherwise agreed by the Administrative Agent, the Administrative Agent will have received certified copies of all shareholder approvals and true copies of all regulatory, governmental and other approvals, if any, required in order for the Obligors to enter into this Agreement and to perform their obligations hereunder;
- (j) all releases, discharges and postponements that are required in the discretion of the Administrative Agent (in registrable form where necessary) with respect to all Encumbrances affecting the collateral Encumbered by the Security that are not Permitted Encumbrances, if any, will have been delivered to the Administrative Agent;

- (k) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees and expenses (including the fees and disbursements of the Lenders' Counsel) payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (l) duly executed copies of the Security and all other Loan Documents and deliveries in connection therewith (including, without limitation, the DBC Subordination Agreement) will have been delivered to the Administrative Agent and all such Loan Documents will have been duly registered, filed and recorded in all Relevant Jurisdictions where required by Applicable Law or where the Administrative Agent considers it necessary, in its sole discretion, to do so;
- (m) a currently dated letter of opinion of Obligors' Counsel as to such matters and in such form as Lenders' Counsel and Obligors' Counsel may agree, each acting reasonably, addressed to the Administrative Agent, the Lenders and to Lenders' Counsel will have been delivered to the Administrative Agent;
- (n) the Administrative Agent shall have received a title opinion (which shall include a report as to off-title matters) from Borrower's Counsel dated on or prior to the Drawdown Date and confirming, among other things, that (i) the Borrower has good and marketable title to the Riverdale Project Phase, subject only to Permitted Encumbrances, and (ii) the Debenture constitutes a good and valid first charge on the Riverdale Project Phase Lands, subject only to Permitted Encumbrances;
- (o) after giving effect to the Drawdown:
 - (i) the Cost to Complete for the Riverdale Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Riverdale Construction Facility, (B) Riverdale Deferred Costs (to a maximum amount of \$901,600) in respect of the Riverdale Project Phase, (C) the Undistributed Deposit Amount in respect of the Riverdale Project Phase, and (D) Riverdale Interim Revenue; and
 - (ii) the aggregate principal amount of all Loans outstanding under the Riverdale Construction Facility shall not exceed the lesser of: (A) the Riverdale Construction Facility Commitment, and (B) the Costs-In-Place Margin applicable to the Riverdale Project Phase;
- (p) the Administrative Agent shall have received all other reports and deliveries required hereunder for the period prior to such Drawdown Date;
- (q) there shall not have occurred or come into effect any event or financial occurrence which, in the reasonable opinion of the Lenders, disrupts or adversely affects, or may disrupt or adversely affect, the state of financial, banking or capital markets in Canada;
- (r) the Administrative Agent shall have received an appraisal satisfactory to it indicating a minimum combined market value of \$31,890,000 for the Project Lands;
- (s) the Administrative Agent shall have received evidence satisfactory that at least \$8,161,000 of Purchaser Deposits have been received by the Borrower (or its

trustee) and are available to the Borrower to fund Project Costs, whereby any shortfall in such amount may be made up by additional equity in the Project contributed by the Obligors (and evidence satisfactory to the Administrative Agent must be delivered in respect of such equity contribution);

- (t) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (u) such first advance must have occurred no later than September 30, 2012,

provided that all documents delivered pursuant to this Section 3.02 must be in full force and effect, and in form and substance satisfactory to the Lenders, acting reasonably.

3.03 **Conditions Precedent to First Drawdown – Beach Credit Facilities**

The obligation of each Lender to make the first advance hereunder by way of a Loan under the Beach Credit Facilities is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice by the time required under Section 2.05(2) and (3);
- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance;
- (d) a Material Adverse Change will not have occurred and be existing;
- (e) the Administrative Agent will have received certified copies of the Organizational Documents of each Obligor, the resolutions authorizing the execution and delivery of, and performance of each of the Obligors' respective obligations under the Loan Documents and the transactions contemplated herein, and a certificate as to the incumbency of the officers of the Obligors executing the Loan Documents and any other documents to be provided pursuant to the provisions hereof;
- (f) except as otherwise agreed by the Administrative Agent, certificates of status or comparable certificates for all Relevant Jurisdictions of each Obligor will have been delivered to the Administrative Agent;
- (g) the Independent Cost Consultant shall have been appointed to act on behalf of the Administrative Agent and the Lenders throughout the duration of the Beach Project Phase at the Borrower's expense;
- (h) the Lenders will have completed their due diligence with respect to the Obligors and the Beach Project Phase, and will have received all financial, corporate and other information requested by any Lender or the Administrative Agent, including receipt and review of:

- (i) the most recent financial statements of the Urbancorp Guarantor and the Beach Guarantor (including the annual financial statements required pursuant to Section 9.02(1) for the Fiscal Year most recently ended) and the most recent personal net worth statement of the Saskin Guarantor;
- (ii) all Material Project Agreements for the Beach Project Phase (including, without limitation, satisfactory review and approval by the Lenders of all of the Consultants retained in connection with the Beach Project Phase and all Contractors retained in connection with those Material Project Agreements described in paragraph (b) of the definition of Material Project Agreements);
- (iii) all Permitted Encumbrances, including all Leases, for the Beach Project Phase;
- (iv) a certificate from the City or a copy of the relevant tax bill issued by the City and evidence of payment thereof satisfactory to the Administrative Agent and Lenders, evidencing that realty Taxes levied against the Beach Project Lands are current;
- (v) a Phase I environmental report, a Phase II environmental report and a record of site condition or other environmental reporting evidencing that the Beach Project Phase is in compliance with all Environmental Law, which must be addressed to the Administrative Agent or accompanied by a letter from the environmental consultant addressed to the Administrative Agent that permits the Administrative Agent to rely on such reports;
- (vi) a report from an engineer acceptable to the Administrative Agent (which must be addressed to the Administrative Agent or accompanied by a letter from the engineer that permits the Administrative Agent to rely on such report) confirming the feasibility of constructing the Beach Project Phase on the Beach Project Phase Lands, including, without limitation, that the soil conditions of the Beach Project Phase Lands are satisfactory for Construction and that the existing parking structure is satisfactory and has been completed in all material respects in accordance with the plans and specifications therefor;
- (vii) the Beach Project Phase Budget, the Plans and Specifications in respect of the Beach Project Phase and the Beach Construction Schedule;
- (viii) a Project status certificate in respect of the Beach Project Phase from a senior officer of the Borrower substantially in the form of Schedule 9.02(3)(a) signed in accordance with the Administrative Agent's current account authorities;
- (ix) a Project consultant's certificate in respect of the Beach Project Phase substantially in the form of Schedule 9.02(3)(e) signed by the Independent Cost Consultant;
- (x) except where the Administrative Agent will be an addressee of the relevant reports, an acknowledgement from the Independent Cost Consultant and any other Consultants which will be providing Certificates of Substantial

Performance in respect of any portion of Construction for the purposes of the *Construction Lien Act* (Ontario), that the Administrative Agent, the Lenders and the Independent Cost Consultant will be relying on the reports and certificates provided by the Independent Cost Consultant and that they are entitled to do so;

- (xi) Performance and Payment bonds in respect of the Beach Project Phase, if any, required by the Required Lenders with the recommendation of the Independent Cost Consultant;
- (xii) a current Survey of the Beach Project Phase Lands prepared by an accredited Ontario Land Surveyor showing the boundaries, areas and dimensions of the Beach Project Phase Lands, the location of the buildings and structures, if any, situate thereon and the location of encroachments, easements or rights of way, together with a draft prepared by such Surveyor showing the proposed location of the improvements to be constructed on the Beach Project Phase Lands;
- (xiii) evidence satisfactory to the Lenders that the Borrower' insurance in respect of the Beach Project Phase is satisfactory and complies with this Agreement;
- (xiv) the Standard Form Sales Agreement for the Beach Project Phase;
- (xv) a schedule of pre-sales for the Beach Project Phase, including purchaser name and current address, unit number of the Unit being acquired, asking price, sale price, deposit status (including location of deposit, amount paid to date and amount and timing of deposit yet to be paid), closing date and any special conditions;
- (xvi) copies of all existing Unit Sales Agreements for the Beach Project Phase;
- (xvii) evidence satisfactory to the Lenders that:
 - (A) the aggregate of the Gross Sale Prices under the then existing Unit Sales Agreements for the Project that constitute Qualified Presales is not less than \$82,000,000 (excluding charges for unit upgrades, alterations and recoveries of development charges);
 - (B) a minimum of \$1,956,000 of Purchaser Deposits in respect of the Beach Project Phase Project been received and are available to the Borrower to fund Project Costs in respect of the Beach Project Phase;
 - (C) fixed price contracts for a minimum of 40% of the Hard Costs of the Beach Project Phase have been entered into;
- (xviii) to the extent available, current site plans, floor plans and any current market survey materials relating to the Beach Project Phase not previously provided to the Administrative Agent or the Lenders;

- (xix) evidence that the Beach Project Phase is registered with Tarion Warranty Corporation and is in good standing;
- (xx) any project management agreement for the Beach Project Phase;
- (xxi) all subdivision, servicing, development, site plan and similar agreements with Governmental Authorities that are required in order to ensure the completion or delivery of possession of the Beach Project Phase;
- (xxii) any other documents related to the Beach Project Phase that any Lender deems necessary, including, without limitation, pro-forma offer to purchase documentation, purchaser directed upgrades, permits and development, regulatory and zoning approvals; and
- (xxiii) evidence that Material Beach Project Phase Agreements relating to the Construction of the Beach Project Phase and the grant of necessary rights (including, without limitation, crane swing and shoring) by adjacent property owners, to the extent necessary, have been executed by all counterparties thereto;

and the results of such due diligence will be satisfactory to the Lenders in their sole discretion;

- (i) except as otherwise agreed by the Administrative Agent, the Administrative Agent will have received certified copies of all shareholder approvals and true copies of all regulatory, governmental and other approvals, if any, required in order for the Obligors to enter into this Agreement and to perform their obligations hereunder;
- (j) all releases, discharges and postponements that are required in the discretion of the Administrative Agent (in registrable form where necessary) with respect to all Encumbrances affecting the collateral Encumbered by the Security that are not Permitted Encumbrances, if any, will have been delivered to the Administrative Agent;
- (k) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees and expenses (including the fees and disbursements of the Lenders' Counsel) payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (l) duly executed copies of the Security and all other Loan Documents and deliveries in connection therewith (including, without limitation, the DBC Subordination Agreement) will have been delivered to the Administrative Agent and all such Loan Documents will have been duly registered, filed and recorded in all Relevant Jurisdictions where required by Applicable Law or where the Administrative Agent considers it necessary, in its sole discretion, to do so;
- (m) a currently dated letter of opinion of Obligors' Counsel as to such matters and in such form as Lenders' Counsel and Obligors' Counsel may agree, each acting reasonably, addressed to the Administrative Agent, the Lenders and to Lenders' Counsel will have been delivered to the Administrative Agent;

- (n) the Administrative Agent shall have received a title opinion (which shall include a report as to off-title matters) from Borrower's Counsel dated on or prior to the Drawdown Date and confirming, among other things, that (i) the Borrower has good and marketable title to the Beach Project Phase, subject only to Permitted Encumbrances, and (ii) the Debenture constitutes a good and valid first charge on the Beach Project Phase Lands, subject only to Permitted Encumbrances;
- (o) after giving effect to the Drawdown:
 - (i) the Cost to Complete for the Beach Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Beach Construction Facility, (B) Beach Deferred Costs (to a maximum amount of \$788,760) in respect of the Beach Project Phase, (C) the Undistributed Deposit Amount in respect of the Beach Project Phase, and (D) Beach Interim Revenue; and
 - (ii) the aggregate principal amount of all Loans outstanding under the Beach Construction Facility shall not exceed the lesser of: (A) the Beach Construction Facility Commitment, and (B) the Costs-In-Place Margin applicable to the Beach Project Phase;
- (p) the Administrative Agent shall have received all other reports and deliveries required hereunder for the period prior to such Drawdown Date;
- (q) there shall not have occurred or come into effect any event or financial occurrence which, in the reasonable opinion of the Lenders, disrupts or adversely affects, or may disrupt or adversely affect, the state of financial, banking or capital markets in Canada;
- (r) the Administrative Agent shall have received an appraisal satisfactory to it indicating a minimum combined market value of \$31,890,000 for the Project Lands;
- (s) the Administrative Agent shall have received evidence satisfactory that at least \$8,161,000 of Purchaser Deposits have been received by the Borrower (or its trustee) and are available to the Borrower to fund Project Costs, whereby any shortfall in such amount may be made up by additional equity in the Project contributed by the Obligors (and evidence satisfactory to the Administrative Agent must be delivered in respect of such equity contribution);
- (t) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (u) such first advance must have occurred no later than September 30, 2012,

provided that all documents delivered pursuant to this Section 3.03 must be in full force and effect, and in form and substance satisfactory to the Lenders, acting reasonably.

3.04 **Conditions Precedent to all Subsequent Drawdowns – Leslieville Facilities**

The obligation of each Lender to make any advance hereunder by way of a Loan under the Leslieville Credit Facilities is subject to and conditional upon the prior satisfaction of the following additional conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice as required under Sections 2.05(2) and (3);
- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance, and, without limitation, all Cost Overruns that shall have been incurred on any Project Phase shall have been funded in their entirety by the Obligors;
- (d) a Material Adverse Change will not have occurred and be existing;
- (e) the Borrower must have delivered to the Administrative Agent all reporting required by Section 9.02;
- (f) the Administrative Agent shall have received a subsearch from Lenders' Counsel confirming that no Encumbrances have been registered on title to the Leslieville Project Phase Lands since the date of the prior Drawdown under the Leslieville Credit Facilities other than Permitted Encumbrances;
- (g) the Administrative Agent shall have received evidence that all Permits necessary for Construction which relate to: (i) Construction in respect of which the Drawdown is being made, and (ii) all prior Construction, are in place at the time of the Drawdown;
- (h) if any new Material Project Agreements in connection with the Leslieville Project Phase have been entered into since the previous Drawdown, notice of such agreement shall have been given to the Administrative Agent;
- (i) the Administrative Agent shall have received copies of all new Unit Sales Agreements and Leases for the Leslieville Project Phase entered into since the previous Drawdown and an updated schedule of pre-sales for the Leslieville Project Phase (including purchaser name and current address, unit number of the Unit being acquired, asking price, sale price, deposit status (including location of deposit, amount paid to date and amount and timing of deposit yet to be paid), closing date and any special conditions) and, if and when applicable, an updated schedule of committed pre-leases for the Leslieville Project Phase (including tenant name and current address, unit number of the premises being leased, lease start date and deposit status, tenant name, gross leasable area, triple net rent, term and options to extend, free or reduced rent period and any special conditions);
- (j) the Administrative Agent shall have received in respect of the Leslieville Project Phase:

- (i) a Project status certificate in respect of the Leslieville Project Phase from a senior officer of the Borrower substantially in the form of Schedule 9.02(3)(a) signed in accordance with the Administrative Agent's current account authorities;
 - (ii) a Project consultant's certificate in respect of the Leslieville Project Phase substantially in the form of Schedule 9.02(3)(e) signed by the Independent Cost Consultant;
- (k) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (l) any scheduled release of Purchaser Deposits by the DBC in respect of the Leslieville Project Phase that is not made available by the DBC shall have been funded by the Borrower;
- (m) if such Advance occurs after 90 days of the first advance under the Leslieville Construction Facility, the Administrative Agent shall have received evidence that fixed price contracts for a minimum of 65% of the Hard Costs of the Leslieville Project Phase have been entered into;
- (n) there shall not have occurred or come into effect any event or financial occurrence which, in the reasonable opinion of the Lenders, disrupts or adversely affects, or may disrupt or adversely affect, the state of financial, banking or capital markets in Canada;
- (o) after giving effect to the Drawdown:
 - (i) the Cost to Complete for the Leslieville Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Leslieville Construction Facility, (B) Leslieville Deferred Costs (to a maximum amount of \$1,122,800) in respect of the Leslieville Project Phase, (C) the Undistributed Deposit Amount in respect of the Leslieville Project Phase, and (D) Leslieville Interim Revenue; and
 - (ii) the aggregate principal amount of all Loans outstanding under the Leslieville Construction Facility shall not exceed the lesser of: (A) the Leslieville Construction Facility Commitment, and (B) the Costs-In-Place Margin applicable to the Leslieville Project Phase;
- (p) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (q) all other terms and conditions of this Agreement upon which the Borrower may obtain a Loan that have not been waived will have been fulfilled.

3.05 **Conditions Precedent to all Subsequent Drawdowns – Riverdale Facilities**

The obligation of each Lender to make any advance hereunder by way of a Loan under the Riverdale Credit Facilities is subject to and conditional upon the prior satisfaction of the following additional conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice as required under Sections 2.05(2) and (3);
- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance, and, without limitation, all Cost Overruns that shall have been incurred on any Project Phase shall have been funded in their entirety by the Obligors;
- (d) a Material Adverse Change will not have occurred and be existing;
- (e) the Borrower must have delivered to the Administrative Agent all reporting required by Section 9.02;
- (f) the Administrative Agent shall have received a subsearch from Lenders' Counsel confirming that no Encumbrances have been registered on title to the Riverdale Project Phase Lands since the date of the prior Drawdown under the Riverdale Credit Facilities other than Permitted Encumbrances;
- (g) the Administrative Agent shall have received evidence that all Permits necessary for Construction which relate to: (i) Construction in respect of which the Drawdown is being made, and (ii) all prior Construction, are in place at the time of the Drawdown;
- (h) if any new Material Project Agreements in connection with the Riverdale Project Phase have been entered into since the previous Drawdown, notice of such agreement shall have been given to the Administrative Agent;
- (i) the Administrative Agent shall have received copies of all new Unit Sales Agreements and Leases for the Riverdale Project Phase entered into since the previous Drawdown and an updated schedule of pre-sales for the Riverdale Project Phase (including purchaser name and current address, unit number of the Unit being acquired, asking price, sale price, deposit status (including location of deposit, amount paid to date and amount and timing of deposit yet to be paid), closing date and any special conditions) and, if and when applicable, an updated schedule of committed pre-leases for the Riverdale Project Phase (including tenant name and current address, unit number of the premises being leased, lease start date and deposit status, tenant name, gross leasable area, triple net rent, term and options to extend, free or reduced rent period and any special conditions);
- (j) the Administrative Agent shall have received in respect of the Riverdale Project Phase:

- (i) a Project status certificate in respect of the Riverdale Project Phase from a senior officer of the Borrower substantially in the form of Schedule 9.02(3)(a) signed in accordance with the Administrative Agent's current account authorities;
- (ii) a Project consultant's certificate in respect of the Riverdale Project Phase substantially in the form of Schedule 9.02(3)(e) signed by the Independent Cost Consultant;
- (k) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (l) if such Advance occurs after 90 days of the first advance under the Riverdale Construction Facility, the Administrative Agent shall have received evidence that fixed price contracts for a minimum of 65% of the Hard Costs of the Riverdale Project Phase have been entered into;
- (m) there shall not have occurred or come into effect any event or financial occurrence which, in the reasonable opinion of the Lenders, disrupts or adversely affects, or may disrupt or adversely affect, the state of financial, banking or capital markets in Canada;
- (n) after giving effect to the Drawdown:
 - (i) the Cost to Complete for the Riverdale Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Riverdale Construction Facility, (B) Riverdale Deferred Costs (to a maximum amount of \$901,600) in respect of the Riverdale Project Phase, (C) the Undistributed Deposit Amount in respect of the Riverdale Project Phase, and (D) Riverdale Interim Revenue; and
 - (ii) the aggregate principal amount of all Loans outstanding under the Riverdale Construction Facility shall not exceed the lesser of: (A) the Riverdale Construction Facility Commitment, and (B) the Costs-In-Place Margin applicable to the Riverdale Project Phase;
- (o) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (p) all other terms and conditions of this Agreement upon which the Borrower may obtain a Loan that have not been waived will have been fulfilled.

3.06 Conditions Precedent to all Subsequent Drawdowns – Beach Facilities

The obligation of each Lender to make any advance hereunder by way of a Loan under the Beach Credit Facilities is subject to and conditional upon the prior satisfaction of the following additional conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice as required under Sections 2.05(2) and (3);

- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance, and, without limitation, all Cost Overruns that shall have been incurred on any Project Phase shall have been funded in their entirety by the Obligors;
- (d) a Material Adverse Change will not have occurred and be existing;
- (e) the Borrower must have delivered to the Administrative Agent all reporting required by Section 9.02;
- (f) the Administrative Agent shall have received a subsearch from Lenders' Counsel confirming that no Encumbrances have been registered on title to the Beach Project Phase Lands since the date of the prior Drawdown under the Beach Credit Facilities other than Permitted Encumbrances;
- (g) the Administrative Agent shall have received evidence that all Permits necessary for Construction which relate to: (i) Construction in respect of which the Drawdown is being made, and (ii) all prior Construction, are in place at the time of the Drawdown;
- (h) if any new Material Project Agreements in connection with the Beach Project Phase have been entered into since the previous Drawdown, notice of such agreement shall have been given to the Administrative Agent;
- (i) the Administrative Agent shall have received copies of all new Unit Sales Agreements and Leases for the Beach Project Phase entered into since the previous Drawdown and an updated schedule of pre-sales for the Beach Project Phase (including purchaser name and current address, unit number of the Unit being acquired, asking price, sale price, deposit status (including location of deposit, amount paid to date and amount and timing of deposit yet to be paid), closing date and any special conditions) and, if and when applicable, an updated schedule of committed pre-leases for the Beach Project Phase (including tenant name and current address, unit number of the premises being leased, lease start date and deposit status, tenant name, gross leasable area, triple net rent, term and options to extend, free or reduced rent period and any special conditions);
- (j) the Administrative Agent shall have received in respect of the Beach Project Phase:
 - (i) a Project status certificate in respect of the Beach Project Phase from a senior officer of the Borrower substantially in the form of Schedule 9.02(3)(a) signed in accordance with the Administrative Agent's current account authorities;
 - (ii) a Project consultant's certificate in respect of the Beach Project Phase substantially in the form of Schedule 9.02(3)(e) signed by the Independent Cost Consultant;

- (k) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (l) if such Advance occurs after 90 days of the first advance under the Beach Construction Facility, the Administrative Agent shall have received evidence that fixed price contracts for a minimum of 65% of the Hard Costs of the Beach Project Phase have been entered into;
- (m) there shall not have occurred or come into effect any event or financial occurrence which, in the reasonable opinion of the Lenders, disrupts or adversely affects, or may disrupt or adversely affect, the state of financial, banking or capital markets in Canada;
- (n) after giving effect to the Drawdown:
 - (i) the Cost to Complete for the Beach Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Beach Construction Facility, (B) Beach Deferred Costs (to a maximum amount of \$788,760) in respect of the Beach Project Phase, (C) the Undistributed Deposit Amount in respect of the Beach Project Phase, and (D) Beach Interim Revenue; and
 - (ii) the aggregate principal amount of all Loans outstanding under the Beach Construction Facility shall not exceed the lesser of: (A) the Beach Construction Facility Commitment, and (B) the Costs-In-Place Margin applicable to the Beach Project Phase;
- (o) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (p) all other terms and conditions of this Agreement upon which the Borrower may obtain a Loan that have not been waived will have been fulfilled.

3.07 **Conditions Precedent to all Drawdowns - LC Facility**

The obligation of each the LC Lender to make any advance hereunder by way of the issuance of a Letter of Credit is subject to and conditional upon the prior satisfaction of the following additional conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice as required under Sections 2.05(2) and (3);
- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance;
- (d) a Material Adverse Change will not have occurred and be existing;

- (e) the Borrower Entities must have delivered to the Administrative Agent all reporting required by Section 9.02;
- (f) the Administrative Agent shall have received evidence that all Permits necessary for Construction which relate to: (i) Construction in respect of which the Drawdown is being made, and (ii) all prior Construction, are in place at the time of the Drawdown;
- (g) if any new Material Project Agreements have been entered into since the previous Drawdown, notice of such agreement shall have been given to the Administrative Agent;
- (h) the Administrative Agent shall have received a report from the Independent Cost Consultant a Project status certificate in respect of the Project from a senior officer of the Borrower substantially in the form of Schedule 9.02(3)(a) signed in accordance with the Administrative Agent's current account authorities;
- (i) the Administrative Agent shall have received a Project consultant's certificate in respect of the Project substantially in the form of Schedule 9.02(3)(e) signed by the Independent Cost Consultant;
- (j) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (k) after giving effect to the Drawdown the aggregate face amount of all Letters of Credit issued under the LC Facility shall not exceed the LC Facility Commitment;
- (l) the conditions precedent in Sections 3.01, 3.02, or 3.03, as applicable, in respect of an initial Drawdown for the Project Phase in respect of which the Letter of Credit has been requested shall have been satisfied;
- (m) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (n) all other terms and conditions of this Agreement upon which the Borrower may request a Letter of Credit that have not been waived will have been fulfilled.

3.08 Conditions Precedent to all Drawdowns – Capital Loan Facility

The obligation of the Lenders to make any advance hereunder in respect of the Capital Loan Facility is subject to and conditional upon the prior satisfaction of the following additional conditions precedent:

- (a) the Administrative Agent will have received a Drawdown Notice as required under Sections 2.05(2) and (3);
- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 will continue to be true and correct as if made on and as of the Drawdown Date;
- (c) no Default or Event of Default will have occurred and be continuing on the Drawdown Date, or would result from making the requested advance;

- (d) a Material Adverse Change will not have occurred and be existing;
- (e) the Borrower Entities must have delivered to the Administrative Agent all reporting required by Section 9.02;
- (f) the Administrative Agent shall have received documentation satisfactory to it evidencing the payout of the profit sharing obligation pursuant to the Profit Sharing Agreement in the amount of approximately \$2,600,000;
- (g) the Administrative Agent will have received on its own behalf or on behalf of the Lenders payment of all fees payable to the Administrative Agent or the Lenders that are due and payable at such time;
- (h) all of the conditions precedent in at least one of Sections 3.01, 3.02, or 3.03 in respect of an initial Drawdown for the applicable Project Phase shall have been satisfied;
- (i) the lenders are satisfied that the Project Equity is no less than the Minimum Project Equity; and
- (j) all other terms and conditions of this Agreement upon which the Borrower may request the issuance of a Loan that have not been waived will have been fulfilled.

3.09 **Waiver**

The conditions set forth in Sections 3.01, 3.02, 3.03, 3.05, 3.05, 3.06, 3.07 and 3.08 are inserted for the sole benefit of the Lenders and may be waived by the Lenders (or the LC Lender, as applicable), in whole or in part (with or without terms or conditions), in respect of any Drawdown without prejudicing the right of the Lenders at any time to assert such conditions in respect of any subsequent Drawdown.

**ARTICLE 4 - PAYMENTS OF INTEREST
AND COMMITMENT FEES**

4.01 **Interest on Prime Rate Loans**

The Borrower will pay interest on each Prime Rate Loan during each Interest Period applicable thereto in Canadian Dollars at a rate *per annum* equal to the sum of (a) the Prime Rate in effect from time to time during such Interest Period plus (b) the Prime Rate Margin. Each determination by the Administrative Agent of the Prime Rate applicable from time to time during an Interest Period will, in the absence of manifest error, be binding upon the Borrower. Such interest will be payable in arrears on each Interest Payment Date for such Loan for the period from and including the Drawdown Date, Conversion Date or preceding Interest Payment Date, as the case may be, for such Loan to but excluding such Interest Payment Date (or, if such Interest Payment Date follows the repayment of such Loan or the Conversion of such Loan, to but excluding the date of such repayment or Conversion) and will be calculated on the principal amount of the Prime Rate Loan outstanding during such period and on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be. Changes in the Prime Rate will cause an immediate adjustment of the interest rate applicable to such Loan without the necessity of any notice to the Borrower.

4.02 **Structuring Fee**

In consideration of the Lenders arranging the Credit Facilities, the Borrower shall pay to the Administrative Agent, for the account of the Lenders, on the date of the first Drawdown hereunder, an upfront fee in the amount of \$353,622.50.

4.03 **Agency Fee**

In consideration of the Administrative Agent structuring the Credit Facilities and acting as administrative agent hereunder, the Borrower will pay to the Administrative Agent the agency fee and an arrangement fee in the amounts, and on the terms and conditions, set out in the fee letter dated November 18, 2011 between the Administrative Agent and the Borrower. Such letter agreement will constitute a Loan Document.

4.04 **Maximum Rate of Interest**

Notwithstanding anything contained herein to the contrary, the Borrower will not be obliged to make any payment of interest or other amounts payable to the Lenders hereunder in excess of the amount or rate that would be permitted by Applicable Law or would result in the receipt by the Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)). If the making of any payment by the Borrower would result in a payment being made that is in excess of such amount or rate, the particular Lender will determine the payment or payments that are to be reduced or refunded, as the case may be, so that such result does not occur.

ARTICLE 5 - BANKERS' ACCEPTANCES AND LETTERS OF CREDIT

5.01 **Bankers' Acceptances**

All Bankers' Acceptances and BA Equivalent Advances hereunder shall be issued in accordance with the provisions of this Article 5.

5.02 **General Mechanics**

(1) Upon receipt of a Rollover Notice or Conversion Notice with respect to a Bankers' Acceptance from the Borrower, the Administrative Agent shall forthwith notify each Lender of (i) the proposed Rollover Date or Conversion Date, and (ii) the aggregate face amount of the Bankers' Acceptances to be accepted by it on such Drawdown Date, Rollover Date or Conversion Date. The aggregate face amount of Bankers' Acceptances to be accepted by a Lender shall be determined by the Administrative Agent based on the Lender's Applicable Percentage of the applicable Credit Facility, except that if the face amount of a Bankers' Acceptance would not be Cdn. \$100,000 or a whole multiple thereof based upon such calculation, the face amount shall be increased or reduced by the Administrative Agent in its sole discretion to the nearest whole multiple of Cdn. \$100,000. Each Non BA Lender shall, in lieu of accepting its Applicable Percentage of such Bankers' Acceptances, make available to the Administrative Agent on the Rollover Date or Conversion Date a BA Equivalent Advance in an amount equal to the BA Discount Proceeds of the Bankers' Acceptances (which BA Equivalent Advances are referred to herein collectively as the "**Notional Bankers' Acceptances**") that the Non BA Lender would have been required to accept and purchase on the Rollover Date or Conversion Date if it were a BA Lender.

(2) At no time will there be Bankers' Acceptances outstanding with more than five (5) different maturity dates.

(3) The term of a Bankers' Acceptance shall be selected by the Borrower and may be one, two or three months in duration (subject to availability) provided that the term of a Bankers' Acceptance shall not exceed the Maturity Date.

5.03 **Purchase of Bankers' Acceptances**

Each BA Lender shall purchase each Bankers' Acceptance accepted by it for a price equal to the face amount thereof less the discount to the face amount thereof required to yield an interest rate per annum equal to the BA Discount Rate in effect on the applicable Rollover Date or Conversion Date. A BA Lender may at any time and from time to time hold, rediscount or Dispose of any Bankers' Acceptance purchased by it.

5.04 **Rollovers**

In the case of a Rollover of a Bankers' Acceptance or a BA Equivalent Advance, (a) in order to satisfy the continuing liability of the Borrower to the relevant BA Lender for the face amount of the maturing Bankers' Acceptance, the BA Lender shall determine and retain the BA Discount Proceeds of the new Bankers' Acceptance and the Borrower shall, on the maturity date of the maturing Bankers' Acceptance, pay to the account of the Administrative Agent at the Administrative Agent's Office for the account of the relevant BA Lender (i) the difference between the principal amount of the maturing Bankers' Acceptance and the BA Discount Proceeds from the new Bankers' Acceptance and (ii) the BA Stamping Fee in respect of the new Bankers' Acceptance and (b) each Non BA Lender shall determine and retain the BA Discount Proceeds of the new Notional Bankers' Acceptance and the Borrower shall, on the maturity date of the maturing BA Equivalent Advance, pay to the account of the Administrative Agent at the Administrative Agent's Office for the account of the relevant Non BA Lender (i) the difference between the principal amount of the maturing BA Equivalent Advance and the new Notional Bankers' Acceptance and (ii) the BA Stamping Fee in respect of the new Notional Bankers' Acceptance.

5.05 **Conversions**

(1) In the case of a Conversion into a Bankers' Acceptance or a BA Equivalent Advance, in order to satisfy the continuing liability of the Borrower to the Lenders for the amount of the converted Loan, the Lenders shall determine and retain for their own account the BA Discount Proceeds of the Bankers' Acceptance (or the Notional Bankers' Acceptance) and the Borrower shall on the Conversion Date pay to the account of the Administrative Agent at the Administrative Agent's Office for the account of the relevant Lender (i) the difference between the principal amount of the converted Loan and the BA Discount Proceeds from the Bankers' Acceptance (or the Notional Bankers' Acceptance), and (ii) the BA Stamping Fee in respect of the Bankers' Acceptance (or the Notional Bankers' Acceptance).

(2) In the case of a Conversion of a Bankers' Acceptance or a BA Equivalent Advance into another type of Loan, in order to satisfy the continuing liability of the Borrower to the Lenders for an amount equal to the face amount of the Bankers' Acceptance (or the amount of the BA Equivalent Advance), the Administrative Agent shall record the obligation of the Borrower to the Lenders as a Loan of the type into which the obligation has been converted.

5.06 **Maturity**

Prior to the maturity date of a Bankers' Acceptance or BA Equivalent Advance the Borrower shall deliver to the Administrative Agent one of the following:

- (a) by the deadline set forth in Section 2.05, a Rollover Notice stating that the Borrower intends to draw and present for acceptance on the maturity date a new Bankers' Acceptance in the same face amount as the maturing Bankers' Acceptance or request a new BA Equivalent Advance in the same amount as the maturing BA Equivalent Advance; or
- (b) by 11:00 a.m. (Toronto time) one (1) Business Day prior to the maturity date of such Bankers' Acceptance or BA Equivalent Advance, a Repayment Notice in respect of such Bankers' Acceptance or BA Equivalent Advance and on the maturity date of the maturing Bankers' Acceptance or BA Equivalent Advance, pay to the Administrative Agent, for the account of the Lenders, an amount equal to the face amount of the maturing Bankers' Acceptance or BA Equivalent Advance; or
- (c) by the deadline set forth in Section 2.05, a Conversion Notice in respect of such Bankers' Acceptance or BA Equivalent Advance and on the maturity date of the maturing Bankers' Acceptance or BA Equivalent Advance, the Administrative Agent shall record the obligation of the Borrower to the Lenders as a Prime Rate Loan in an amount equal to the face amount of the maturing Bankers' Acceptance or BA Equivalent Advance.

If the Borrower fails to so notify the Administrative Agent, the Lenders shall effect a Conversion into a Prime Rate Loan as if a Conversion Notice pursuant to paragraph (c) above had been given by the Borrower to the Administrative Agent electing to convert such maturing Bankers' Acceptance or BA Equivalent Advance into a Prime Rate Loan.

5.07 **Bankers' Acceptances Stamping Fees**

Upon the acceptance by a BA Lender of any Draft of the Borrower pursuant to this Agreement, the Borrower shall be obliged to pay (which payment shall be satisfied if payment is deducted by the BA Lender under Section 5.02(1)) to the Administrative Agent's account, for the account of the applicable BA Lender, a fee in Canadian Dollars equal to the BA Stamping Fee on the face amount at maturity of the Bankers' Acceptance for its term, being the actual number of days in the period from and including the date of acceptance of the Bankers' Acceptance to but excluding the maturity date of the Bankers' Acceptance and, for purposes of calculation, calculated on the basis of a 365 day year. Each Non BA Lender shall also be entitled to deduct from its BA Equivalent Advance an amount equal to the BA Stamping Fee that would have been applicable to the Notional Bankers' Acceptance had it been a Bankers' Acceptance.

5.08 **General**

(1) In order to facilitate the issuance of Bankers' Acceptances pursuant to this Article 5, upon the delivery of a Drawdown Notice, Conversion Notice or Rollover Notice with respect to a Bankers' Acceptance, the Borrower authorizes each BA Lender and appoints each BA Lender its attorney to complete drafts in the form prescribed by such BA Lender (each such draft that has not yet been accepted by a BA Lender being referred to as a "Draft"), sign and endorse same on its behalf in handwritten form or by facsimile or mechanical signature or otherwise and, once so

completed, signed and endorsed to accept them as a Bankers' Acceptance under this Article 5 and then purchase, discount or negotiate such a Bankers' Acceptance in accordance with the provisions of this Article 5. Drafts so completed, signed, endorsed and negotiated on behalf of the Borrower by any BA Lender shall bind the Borrower as fully and effectively as if so performed by an authorized officer of the Borrower. Each Draft of a Bankers' Acceptance completed, signed or endorsed by a BA Lender shall mature on the last day of the Interest Period with respect thereto.

(2) Any executed Drafts to be used for Bankers' Acceptances which are held by any BA Lender shall be held in safekeeping with the same degree of care as if they were that BA Lender's own property and that BA Lender was keeping them at the place at which they are to be held. The Borrower shall, by written notice to the Administrative Agent, designate the Persons authorized to give the Administrative Agent and each BA Lender instructions regarding the manner in which the Drafts are to be completed and the times at which they are to be issued. Neither the Administrative Agent nor any Lender nor any of their respective directors, officers, employees or representatives shall be liable for any action taken or omitted to be taken by any of them under this Article 5 except for its own negligence or wilful misconduct.

(3) Each BA Lender shall maintain a record with respect to Bankers' Acceptances (i) accepted by it hereunder; (ii) cancelled at their respective maturities; or (iii) voided by it for any reason and each Non BA Lender shall keep a record of each BA Equivalent Advance made by it hereunder. Each Lender further agrees to retain such records in the manner and for the statutory periods provided in the various provincial or federal statutes and regulations which apply to such Lender.

(4) The Borrower shall not claim any days of grace for the payment at maturity of any Bankers' Acceptance or BA Equivalent Advance. The obligations of the Borrower to make payments in respect of Bankers' Acceptances shall not be prejudiced by the fact that the holder of such Bankers' Acceptance is the Lender that accepted such Bankers' Acceptance. The obligations of the Borrower with respect to Bankers' Acceptances and BA Equivalent Advances under this Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including, without limitation, the following circumstances:

- (a) any lack of validity or enforceability of any bill of exchange accepted by a BA Lender as a Bankers' Acceptance; or
- (b) the existence of any claim, set off, defence or other right which the Borrower may have at any time against the holder of a Bankers' Acceptance, or any other Person, whether in connection with this Agreement or otherwise.

5.09 **Letters of Credit**

(1) If the Borrower wishes to request that a Letter of Credit be issued under the LC Facility, the Borrower will, at the time it delivers a Drawdown Notice pursuant to Section 2.05, execute and deliver to the LC Lender the LC Lender's usual documentation relating to the issuance and administration of letters of credit. In the event of any inconsistency between the terms of such documentation and this Agreement, the terms of this Agreement will prevail.

(2) Each Letter of Credit issued by the LC Lender will be in a form and on such terms as determined by the LC Lender in its sole and unfettered discretion.

(3) Unless otherwise agreed by the LC Lender, no Letter of Credit may be issued for a period in excess of one year, provided that, where requested by the beneficiary of such Letter of Credit, it will contain an "evergreen" clause in respect of the maturity date thereof.

(4) If, at any time, a demand for payment (the amount so demanded being herein referred to as a "**relevant amount**") is made under any Letter of Credit:

- (a) the LC Lender will promptly notify the Administrative Agent and the Administrative Agent will promptly notify the Borrower of such demand, and
- (b) the LC Lender will pay the relevant amount to the Person entitled thereto on the date upon which the relevant amount becomes payable under the Letter of Credit or as soon as possible thereafter.

(5) The Borrower will be deemed to have requested a Prime Rate Loan in an amount equal to the sum of the relevant amount and all charges and expenses incurred by the LC Lender in connection with payment under the Letter of Credit.

(6) The Borrower hereby undertake to indemnify and hold harmless the Administrative Agent and the LC Lender from time to time on demand by the Administrative Agent from and against all liabilities and costs (including any costs incurred in funding any amount that falls due from the LC Lender under any Letter of Credit hereunder) to the extent that such liabilities or costs are not satisfied or compensated by the payment of interest on sums due pursuant to this Agreement in connection with any Letter of Credit, except where such liabilities or costs result from the gross negligence or wilful misconduct of the Person claiming indemnification.

(7) The LC Lender will at all times be entitled, and is irrevocably authorized by the Borrower, to make any payment under a Letter of Credit for which a request or demand has been made in the required form without any further reference to the Borrower and any investigation or enquiry, need not concern itself with the propriety or validity of any claim made or purported to be made under the terms of such Letter of Credit (except as to compliance with the payment conditions of such Letters of Credit) and will be entitled to assume that any Person expressed in such Letter of Credit as being entitled to make demand or receive payments thereunder is so entitled. Accordingly, so long as a request or demand has been made as aforementioned, it will not be a defence to any demand made of the Borrower hereunder, nor will the obligations of the Borrower hereunder be impaired by the fact (if it be the case) that the LC Lender was or might have been justified in refusing payment, in whole or in part, of the amounts so claimed.

(8) A certificate of the Administrative Agent or the LC Lender or both of them as to the amounts paid by the LC Lender pursuant to this Section 5.09 or the amount paid under any Letter of Credit will, in the absence of manifest error, be prima facie evidence of the existence and amount of such payment in any legal action or proceeding arising out of or in connection herewith.

(9) The Borrower will pay to the Administrative Agent, for the benefit of the LC Lender, a fee at the Letter of Credit Fee Rate calculated on the amount of each Letter of Credit in Canadian Dollars (subject to a minimum fee of \$250) and payable quarterly in arrears on the fifth Business Day of the month following the end of each calendar quarter on the basis of a calendar year for the number of days from the date of issuance.

(10) If any Letter of Credit is outstanding upon the occurrence of an Event of Default or on the Maturity Date, the Borrower will forthwith pay to the Administrative Agent an amount (the

“deposit amount”) equal to the undrawn face amount of the outstanding Letter of Credit, which deposit amount will be held by the Administrative Agent in an interest bearing deposit instrument for application against the indebtedness owing by the Borrower to the LC Lender in respect of any draw on the outstanding Letter of Credit, or such alternate security as the Borrower and the LC Lender may agree. In the event that the LC Lender is not called upon to make full payment on the outstanding Letter of Credit prior to its expiry date, the deposit amount (together with interest thereon, if any), or any part thereof that has not been paid out, will, so long as no Event of Default then exists, be returned to the Borrower.

(11) The obligations of the Borrower with respect to Letters of Credit will be unconditional and irrevocable, and must be paid or performed strictly in accordance with the terms of this Agreement under all circumstances, including the following circumstances:

- (a) any lack of validity or enforceability of any Loan Document or the Letters of Credit;
- (b) any amendment or waiver of or any consent to or actual departure from this Agreement;
- (c) the existence of any claim, set-off, defence or other right which the Borrower may have at any time against any beneficiary or any transferee of a Letter of Credit (or any Persons for which any such beneficiary or any such transferee may be acting), the LC Lender or any other Person or entity, whether in connection with this Agreement, the transactions contemplated herein or in any other agreements or any unrelated transactions;
- (d) any document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect except for non-compliance with the payment conditions of such Letter of Credit; or
- (e) any other circumstance whatsoever, whether or not similar to any of the foregoing except for non-compliance with the payment conditions of such Letter of Credit (but subject to Section 5.09(7) above).

At the option of the LC Lender, either the *Uniform Customs and Practice* for documentary credits or *International Standby Practices*, each published by the International Chamber of Commerce, current on the issue of each Letter of Credit will be binding on the Borrower and the LC Lender with respect to each such Letter of Credit. The Borrower assume all risks of the acts or omissions of the beneficiary of each Letter of Credit with respect to such Letter of Credit. In furtherance of, and not in limitation of, the LC Lender's rights and powers under such *Uniform Customs and Practice* or *International Standby Practices*, as applicable, but subject to all other provisions of this Section 5.09, it is understood that the LC Lender will not have any liability for, and that the Borrower assume all responsibility for: (i) the genuineness of any signature, (ii) the form, validity, genuineness, falsification and legal effect of any draft, certification or other document required by a Letter of Credit or the authority of the Person signing the same, (iii) the failure of any instrument to bear any reference or adequate reference to a Letter of Credit or the failure of any Person to note the amount of any instrument on the reverse of a Letter of Credit or to surrender a Letter of Credit, (iv) the good faith or acts of any Person other than the LC Lender and its agents and employees, (v) the existence, form or sufficiency or breach or default under any agreement or instrument of any nature whatsoever, (vi) any delay in giving or failure to give any notice, demand or protest, and (vii) any error, omission, delay in or non-delivery of any notice or other communication, however sent. The

determination as to whether the required documents are presented prior to the expiration of a Letter of Credit and whether such other documents are in proper and sufficient form for compliance with a Letter of Credit will be made by the LC Lender in its sole discretion, which determination will be conclusive and binding upon the Borrower absent manifest error. It is agreed that the LC Lender may honour, as complying with the terms of a Letter of Credit and this Agreement, any documents otherwise in order and signed or issued by the beneficiary thereof. Any action, inaction or omission on the part of the LC Lender under or in connection with any Letter of Credit or any related instrument or document, if in good faith and in conformity with such laws, regulations or commercial or banking customs as the LC Lender may reasonably deem to be applicable, will be binding upon the Borrower, and will not affect, impair or prevent the vesting of any of the LC Lender's rights or powers hereunder or the Borrower's obligation to make full reimbursement of amounts drawn under the Letters of Credit. Notwithstanding the provisions of this Section 5.09(11), the Borrower will not be responsible, and no Person will be relieved of responsibility, for any gross negligence or wilful misconduct of such Person.

ARTICLE 6 - REPAYMENT

6.01 Mandatory Repayment

(1) The Borrower will repay in full the outstanding principal amount of all Loans and other Obligations under the Credit Facilities on or before the Maturity Date applicable thereto.

(2) If the Administrative Agent determines that on any day:

- (a) the Cost to Complete for the Leslieville Project Phase exceeds the aggregate of: (A) the undrawn portion of the Leslieville Construction Facility, (B) Leslieville Deferred Costs (to a maximum of \$1,122,800), (C) the Undistributed Deposit Amount in respect of the Leslieville Project Phase, and (D) Leslieville Interim Revenue;
- (b) the aggregate principal amount of all Loans under the Leslieville Construction Facility exceeds the lesser of: (A) the Leslieville Construction Facility Commitment, or (B) the Costs-In-Place Margin in respect of the Leslieville Construction Phase; or
- (c) the aggregate face amount of all Letters of Credit issued under the LC Facility exceeds the LC Facility Commitment,

the Administrative Agent will notify the Borrower that such an event has occurred, and the Borrower will, within five (5) Business Days following receipt of such notice, as applicable, (i) repay Loans under the Leslieville Credit Facility in an amount equal to such excess, (ii) reduce the amount of one or more Letters of Credit granted under the Leslieville Letter of Credit Facility by the amount of such excess, or (iii) provide cash collateral in respect of such Letters of Credit on terms and conditions acceptable to the LC Lender, acting reasonably, in an amount equal to such excess. Until such time as the Borrower have reduced such excess (or provided cash collateral therefor) as provided in the foregoing sentence, the amount of such excess shall bear interest at the Prime Rate plus 5% per annum as opposed to the rate provided for in Section 4.01.

(3) If the Administrative Agent determines that on any day:

- (a) the Cost to Complete for the Riverdale Project Phase exceeds the aggregate of: (A) the undrawn portion of the Riverdale Construction Facility, (B) Riverdale Deferred Costs (to a maximum of \$901,600), (C) the Undistributed Deposit Amount in respect of the Riverdale Project Phase, and (D) Riverdale Interim Revenue;
- (b) the aggregate principal amount of all Loans under the Riverdale Construction Facility exceeds the lesser of: (A) the Riverdale Construction Facility Commitment, or (B) the Costs-In-Place Margin in respect of the Riverdale Construction Phase; or
- (c) the aggregate face amount of all Letters of Credit issued under the LC Facility exceeds the LC Facility Commitment,

the Administrative Agent will notify the Borrower that such an event has occurred, and the Borrower will, within five (5) Business Days following receipt of such notice, as applicable, (i) repay Loans under the Riverdale Credit Facility in an amount equal to such excess, (ii) reduce the amount of one or more Letters of Credit granted under the Riverdale Letter of Credit Facility by the amount of such excess, or (iii) provide cash collateral in respect of such Letters of Credit on terms and conditions acceptable to the LC Lender, acting reasonably, in an amount equal to such excess. Until such time as the Borrower have reduced such excess (or provided cash collateral therefor) as provided in the foregoing sentence, the amount of such excess shall bear interest at the Prime Rate plus 5% per annum as opposed to the rate provided for in Section 4.01.

- (4) If the Administrative Agent determines that on any day:
 - (a) the Cost to Complete for the Beach Project Phase exceeds the aggregate of: (A) the undrawn portion of the Beach Construction Facility, (B) Beach Deferred Costs (to a maximum of \$788,760), (C) the Undistributed Deposit Amount in respect of the Beach Project Phase, and (D) Beach Interim Revenue;
 - (b) the aggregate principal amount of all Loans under the Beach Construction Facility exceeds the lesser of: (A) the Beach Construction Facility Commitment, or (B) the Costs-In-Place Margin in respect of the Beach Construction Phase; or
 - (c) the aggregate face amount of all Letters of Credit issued under the LC Facility exceeds the LC Facility Commitment,

the Administrative Agent will notify the Borrower that such an event has occurred, and the Borrower will, within five (5) Business Days following receipt of such notice, as applicable, (i) repay Loans under the Beach Credit Facility in an amount equal to such excess, (ii) reduce the amount of one or more Letters of Credit granted under the Beach Letter of Credit Facility by the amount of such excess, or (iii) provide cash collateral in respect of such Letters of Credit on terms and conditions acceptable to the LC Lender, acting reasonably, in an amount equal to such excess. Until such time as the Borrower have reduced such excess (or provided cash collateral therefor) as provided in the foregoing sentence, the amount of such excess shall bear interest at the Prime Rate plus 5% per annum as opposed to the rate provided for in Section 4.01.

(5) The Borrower shall repay Loans outstanding under the Credit Facilities (with such repayments to be allocated first to the Construction Facilities and then to the LC Facility, as applicable, as cash collateral) from the following amounts (any such repayments shall result in a corresponding permanent reduction in the Leslieville Construction Facility Commitment, the Riverdale Construction Facility Commitment or the Beach Construction Facility Commitment, as applicable):

- (a) 100% of: (i) the net sale proceeds of any Disposition any portion of the Project, or (ii) the net proceeds of any financing relating thereto as permitted hereunder, such repayment to be made on the closing date of the relevant transaction;
- (b) prior to the date the Leslieville Credit Facilities have been fully repaid, 100% of the Net Sale Proceeds from Unit sales in respect of the Leslieville Project Phase, such repayment to be made on the closing date, or the next Business Day if time does not permit, of the relevant transaction, such payment to be used first to pay down and permanently reduce the Leslieville Construction Facility Commitment and second to pay down and permanently reduce the Riverdale Construction Facility Commitment or the Beach Construction Facility Commitment, at the sole discretion of the Lenders;
- (c) prior to the date the Riverdale Credit Facilities have been fully repaid, 100% of the Net Sale Proceeds from Unit sales in respect of the Riverdale Project Phase, such repayment to be made on the closing date, or the next Business Day if time does not permit, of the relevant transaction, such payment to be used first to pay down and permanently reduce the Riverdale Construction Facility Commitment and second to pay down and permanently reduce the Leslieville Construction Facility Commitment or the Beach Construction Facility Commitment, at the sole discretion of the Lenders;
- (d) prior to the date the Beach Credit Facilities have been fully repaid, 100% of the Net Sale Proceeds from Unit sales in respect of the Beach Project Phase, such repayment to be made on the closing date, or the next Business Day if time does not permit, of the relevant transaction, such payment to be used first to pay down and permanently reduce the Beach Construction Facility Commitment and second to pay down and permanently reduce the Leslieville Construction Facility Commitment or the Riverdale Construction Facility Commitment, at the sole discretion of the Lenders;
- (e) after the date the Construction Credit Facilities have been fully repaid, 100% of the Net Sale Proceeds from Unit sales, such repayment to be made on the closing date, or the next Business Day if time does not permit, of the relevant transaction, such payment to be used first to pay down the Capital Loan Facility and to permanently reduce the Capital Loan Facility Commitment, second to cash secure outstanding Letters of Credit and to permanently reduce the LC Facility Commitment;
- (f) Purchaser Deposits released from time to time to the Borrower in respect of the Leslieville Project Phase in excess of the Leslieville Undistributed Deposit Amount, such payment to be used to permanently reduce the Leslieville Construction Facility Commitment;

- (g) Purchaser Deposits received by the Borrower in respect of the Riverdale Project Phase in excess of the Riverdale Undistributed Deposit Amount, such payment to be used to permanently reduce the Riverdale Construction Facility Commitment;
- (h) Purchaser Deposits received by the Borrower in respect of the Leslieville Project Phase in excess of the Beach Undistributed Deposit Amount, such payment to be used to permanently reduce the Beach Construction Facility Commitment;
- (i) 100% of net proceeds of property insurance in respect of the Leslieville Project Phase, if not required to be applied towards replacement, restoration or rebuilding of same, on the terms and conditions set out herein, such payment to be used to permanently reduce the Leslieville Construction Facility Commitment;
- (j) 100% of net proceeds of property insurance in respect of the Riverdale Project Phase, if not required to be applied towards replacement, restoration or rebuilding of same, on the terms and conditions set out herein, such payment to be used to permanently reduce the Riverdale Construction Facility Commitment; and
- (k) 100% of net proceeds of property insurance in respect of the Beach Project Phase, if not required to be applied towards replacement, restoration or rebuilding of same, on the terms and conditions set out herein, such payment to be used to permanently reduce the Beach Construction Facility Commitment.

6.02 **Voluntary Prepayments and Reductions**

(1) If the Administrative Agent has received a Repayment Notice from the Borrower not less than five Business Days prior to the proposed prepayment date, the Borrower may from time to time prepay Loans outstanding under the Construction Facilities without penalty provided that after effecting such repayment, the Cost to Complete the Leslieville Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Leslieville Construction Facility, (B) Leslieville Deferred Costs (to a maximum of \$1,112,800), (C) the Undistributed Deposit Amount in respect of the Leslieville Project Phase, and (D) Leslieville Interim Revenue. Upon such prepayment, the Leslieville Construction Facility Commitment shall be correspondingly reduced by the amount of such prepayment.

(2) If the Administrative Agent has received a Repayment Notice from the Borrower not less than five Business Days prior to the proposed prepayment date, the Borrower may from time to time prepay Loans outstanding under the Construction Facilities without penalty provided that after effecting such repayment, the Cost to Complete the Riverdale Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Riverdale Construction Facility, (B) Riverdale Deferred Costs (to a maximum of \$901,600), (C) the Undistributed Deposit Amount in respect of the Riverdale Project Phase, and (D) Riverdale Interim Revenue. Upon such prepayment, the Riverdale Construction Facility Commitment shall be correspondingly reduced by the amount of such prepayment.

(3) If the Administrative Agent has received a Repayment Notice from the Borrower not less than five Business Days prior to the proposed prepayment date, the Borrower may from time to time prepay Loans outstanding under the Construction Facilities without penalty provided that after effecting such repayment, the Cost to Complete the Beach Project Phase shall not exceed the aggregate of (but without duplication): (A) the undrawn portion of the Beach Construction Facility, (B) Beach Deferred Costs (to a maximum of \$788,760), (C) the Undistributed Deposit Amount in

respect of the Beach Project Phase, and (D) Beach Interim Revenue. Upon such prepayment, the Beach Construction Facility Commitment shall be correspondingly reduced by the amount of such prepayment.

(4) If the Administrative Agent has received a Repayment Notice from the Borrower not less than five Business Days prior to the proposed prepayment date, the Borrower may from time to time prepay Loans outstanding under the Capital Loan Facility Commitment without penalty and the Capital Loan Facility Commitment shall be correspondingly reduced by the amount of such prepayment.

6.03 **Repayment Compensation**

If the Borrower, by reason of any repayment hereunder, whether mandatory or voluntary, wish to or are required to pay any Bankers' Acceptances prior to their respective maturity dates or discharge their obligation to the LC Lender in respect of outstanding Letters of Credit, the Borrower will deposit cash with the Administrative Agent equal to the full face amount at maturity of such Bankers' Acceptance or the face amount of such Letters of Credit, as applicable, and the Borrower shall have entered into such documentation as the Administrative Agent may reasonably require in respect thereof (which documentation shall constitute Loan Documents). With respect to outstanding Letters of Credit, the Borrower shall have the option, in lieu of cash collateral, to secure their obligations to the LC Lender thereunder by maintaining the Security in respect of the Project, but only so long as the Net Sale Proceeds in respect the Project to be obtained from the unsold Units in the Project secures the aggregate face amount of such Letters of Credit granted in connection with the Project on a 2:1 basis.

ARTICLE 7 - PLACE AND APPLICATION OF PAYMENTS

7.01 **Place of Payment of Principal, Interest and Fees**

All payments of principal, interest, fees and other amounts to be made by the Borrower to the Administrative Agent and the Lenders pursuant to this Agreement will be made in the currency in which a Loan or Letter of Credit is outstanding for value on the day such amount is due or, if such day is not a Business Day, on the Business Day next following with interest, by deposit or transfer thereof to the account of the Administrative Agent maintained at the Administrative Agent's Office in Toronto or at such other place as the Borrower and the Administrative Agent may from time to time agree.

7.02 **Netting of Payments**

If, on any date, amounts would be due and payable under this Agreement in the same currency by the Borrower to any Lender, and by such Lender to the Borrower, then, on such date, upon notice from the Administrative Agent or such Lender stating that netting is to apply to such payments, the obligations of each such party to make payment of any such amount will be automatically satisfied and discharged if the amounts payable are the same. If the aggregate amount that would otherwise have been payable by the Borrower to such Lender exceeds the aggregate amount that would otherwise have been payable by such Lender to the Borrower or *vice versa*, such obligations will be replaced by an obligation upon whichever of the Borrower or such Lender would have had to pay the larger aggregate amount, to pay to the other the excess of the larger aggregate amount over the smaller aggregate amount. For greater certainty, prior to acceleration of repayment pursuant to Section 12.02, this Section 7.02 will not permit any Lender to

exercise a right of set-off, combination or similar right against any amount which the Borrower may have on deposit with such Lender in respect of any amount to which netting is to apply pursuant to this Section 7.02, but will apply only to determine the net amount to be payable by the Lenders to the Borrower, or by the Borrower to the Lenders.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

8.01 Representations and Warranties

Each of the Obligor (as applicable and each as to itself only) represents and warrants to the Administrative Agent and to each of the Lenders as follows, and acknowledges and confirms that the Administrative Agent and each of the Lenders is relying upon such representations and warranties:

(1) Existence and Qualification Each of the Borrower, the Urbancorp Guarantor, the Beach Guarantor and the Riverdale Guarantor is a corporation or company has been duly incorporated, amalgamated or continued, as the case may be, and is validly subsisting as a corporation or company under the laws of its jurisdiction of incorporation, amalgamation, or continuance, as the case may be, is duly qualified to carry on business in all jurisdictions in which it carries on its business and has all Material Licences required to conduct such business.

(2) Power and Authority Each of the Obligor has the power, authority and right (a) to enter into and deliver, and to exercise its rights and perform its obligations under, the Loan Documents to which it is a party and all other instruments and agreements delivered by it pursuant to any of the Loan Documents, and (b) to own its Property and carry on its business as currently conducted and as currently proposed to be conducted by it. Without limiting the foregoing, the Borrower has all necessary power and authority to own its interest in the Project Lands and to develop and complete the Project and is duly licensed, registered and qualified to carry out such activities.

(3) Execution, Delivery, Performance and Enforceability of Documents The execution, delivery and performance of each of the Loan Documents to which an Obligor is a party, and every other instrument or agreement delivered by it pursuant to any Loan Document, has been duly authorized by all actions, if any, required on its part and by its directors (or where applicable partners, members or managers), and each of such documents has been duly executed and delivered and, to the best of the knowledge of the Obligor, as applicable, constitutes a valid and legally binding obligation of the particular Obligor enforceable against it in accordance with its terms subject to bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application limiting the enforcement of creditors' rights generally and to general equitable principles.

(4) Loan Documents Comply with Applicable Laws, Organizational Documents and Contractual Obligations Neither the entering into nor the delivery of, and neither the consummation of the transactions contemplated in nor compliance with the terms, conditions and provisions of, the Loan Documents by any Obligor conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under or contravention of, any Requirements of Law applicable to it or any of its, or if applicable, its Organizational Documents, or results or will result in the creation or imposition of any Encumbrance other than Permitted Encumbrances except in favour of the Lenders or the Administrative Agent upon any of its Property, including, in the case of the Borrower, the Project.

(5) Consents/Advice Respecting Loan Documents Each of the Obligors has obtained, made or taken all consents, approvals, authorizations, declarations, registrations, filings, notices and other actions whatsoever required as to the date hereof in connection with the execution and delivery by it of each of the Loan Documents to which it is a party and the consummation of the transactions contemplated in the Loan Documents. The Saskin Guarantor has received independent legal advice concerning the obligations of the Saskin Guarantor pursuant to this Agreement and the Loan Documents.

(6) Taxes Each of the Obligors has paid or made adequate provision for the payment of all Taxes levied on it or on its Property (including, in the case of the Borrower, the Project) or income that are due and payable, including interest and penalties, or has accrued such amounts in its financial statements for the payment of such Taxes, except Taxes that are not material in amount or that are not delinquent (or if delinquent are being contested in good faith, and in respect of which non-payment would not individually or in the aggregate constitute, or be reasonably likely to cause, a Material Adverse Change, and, if the aggregate amount of same is in excess of \$100,000, in respect of which the Obligors have deposited with the Administrative Agent or the appropriate Governmental Authority collateral satisfactory to the Administrative Agent or such Governmental Authority, as the case may be, to secure the payment of such Taxes and so long as the Administrative Agent is satisfied that its Security is not in jeopardy), and there is no material action, suit, proceeding, investigation, audit or claim now pending, or to its knowledge threatened, by any Governmental Authority regarding any Taxes that is reasonably likely to cause a Material Adverse Change nor has it agreed to waive or extend any statute of limitations with respect to the payment or collection of Taxes.

(7) Judgments, Etc. None of the Obligors is subject to any judgment, order, writ, injunction, decree or award, or to any restriction, rule or regulation (other than customary or ordinary course restrictions, rules and regulations consistent or similar with those imposed on other Persons engaged in similar businesses) that has not been stayed or of which enforcement has not been suspended and that individually or in the aggregate constitutes, or is reasonably likely to cause, a Material Adverse Change.

(8) Absence of Litigation There are no actions, suits or proceedings pending or, to the best of the Obligors' knowledge and belief, after due inquiry and all reasonable investigation, threatened against or affecting any Obligor that are reasonably likely to cause, either separately or in the aggregate, a Material Adverse Change. None of the Obligors is in default with respect to any Applicable Law in a manner or to an extent that could reasonably be expected to cause a Material Adverse Change.

(9) Title to Project Lands The Borrower is the registered legal and beneficial owner of the Project Lands, with good and marketable title thereto, and any other real and personal property of any nature which is part of the Project, free and clear of all Encumbrances except Permitted Encumbrances, and no Person has any agreement or right to acquire an interest in the Project.

(10) Labour Relations None of the Obligors is engaged in any unfair labour practice that could reasonably be expected to cause a Material Adverse Change; and there is no unfair labour practice complaint pending against any of the Obligors or, to the best of their knowledge, threatened against any of them, before any Governmental Authority that if adversely determined could reasonably be expected to cause a Material Adverse Change. No grievance or arbitration arising out of or under any collective bargaining agreement is pending against any of the Obligors or to the best of the Obligors' knowledge, threatened against any of them that is reasonably likely to cause, a Material Adverse Change. To the best of the Obligors' knowledge, no strike, labour dispute,

slowdown or stoppage is pending against any of the Obligors or, to the best of their knowledge, threatened against any of them and no union representation proceeding is pending with respect to any employees of any Obligor, except (with respect to any matter specified in this sentence, either individually or in the aggregate) such as could not reasonably be expected to cause a Material Adverse Change.

(11) Compliance with Laws To the best of the knowledge of the Obligors, none of the Obligors is in default under any Applicable Law where such default could reasonably be expected to cause a Material Adverse Change. To the best of the knowledge of the Obligors after due inquiry, the Project Lands are in compliance in all material respects with all Applicable Law, including, without limitation, all Environmental Law. Further, there are no facts known or which ought reasonably to be known, in either case after due enquiry by the Obligors, which could give rise to a notice of non-compliance to such extent with any Applicable Law.

(12) Changes to Applicable Law To the best of the knowledge of the Obligors, there are no pending or proposed changes to Applicable Law which would render illegal or materially restrict the Construction or operation of the Project.

(13) No Default No Default or Event of Default has occurred and is continuing. None of the Obligors is in default under any agreement, guarantee, indenture or instrument to which it is a party or by which it is bound, the breach of which could reasonably be expected to cause a Material Adverse Change.

(14) Ownership Structure The ownership structure of the Obligors is as set out in Schedule 8.01(14). The Borrower does not have any Material Subsidiaries.

(15) Relevant Jurisdictions The Relevant Jurisdictions for each Obligor, if applicable, are set forth on Schedule 1.01(I).

(16) Security To the best of the knowledge of the Obligors, the Security is effective to create in favour of the Administrative Agent, in its capacity as agent for the Lenders, as security for the Obligations described therein, a legal, valid, binding and enforceable security interest in the collateral described therein and proceeds thereof.

(17) Material Project Agreements and Material Licences

(a) True copies of each of the Material Project Agreements and Material Licences existing as of the date of this Agreement have been delivered to the Administrative Agent.

(b) No event has occurred and is continuing that would constitute a material breach of or a material default under any Material Project Agreement or Material Licence and each Material Project Agreement to which an Obligor is a party is binding upon it and, to the best of the Obligors' knowledge, is a binding agreement of each other Person who is a party thereto.

(18) Financial Statements All of the financial statements that have been furnished to the Lenders in connection with this Agreement are complete in all material respects and such financial statements fairly present the financial position of the Obligors as of the dates referred to therein and have been prepared in accordance with GAAP. None of the Obligors has any liabilities (contingent or other) or other obligations of the type required to be disclosed in accordance with GAAP that are

not fully disclosed on the financial statements of the Obligors provided to the Lenders, other than liabilities and obligations incurred in the ordinary course of business, the Obligations and, if applicable, Debt relating to the DBC Agreements.

(19) No Material Adverse Change Since the date of the Obligors' most recent annual financial statements provided to the Administrative Agent, there has been no condition (financial or otherwise), event or change in any Obligor's business, liabilities, operations, results of operations, assets or prospects which constitutes, or could reasonably be expected to constitute, or cause, a Material Adverse Change.

(20) Environmental Matters

- (a) The Project Lands are in full compliance in all material respects with all Environmental Law; none of the Obligors is aware of, nor has it received notice of, any past, present or future condition, event, activity, practice or incident that may interfere with or prevent the compliance or continued compliance of the Project or the Borrower in all respects with all Environmental Law; and the Borrower have obtained all licences, permits and approvals in connection with the Project that are currently required under all Environmental Law and is in full compliance with the provisions of such licences, permits and approvals.
- (b) Other than as disclosed in the environmental report(s) delivered by the Borrower to the Administrative Agent pursuant to Section 3.01(h)(v), the Obligors are not aware that any Hazardous Substances exist on, about or within or have been used, generated, stored, transported, disposed of on, or Released from the Project Lands other than in material accordance and compliance with all Environmental Law.
- (c) The use that the Borrower have made and intend to make of the Project Lands will not result in the use, generation, storage, transportation, accumulation, disposal, or Release of any Hazardous Substances on, in or from the Project Lands except in accordance and compliance with all Environmental Law.
- (d) There is no action, suit or proceeding, or, to its knowledge, any investigation or inquiry, before any Governmental Authority pending or, to its knowledge, threatened against any Obligor relating in any way to any Environmental Law that would or could reasonably be expected to cause a Material Adverse Change.
- (e) No Obligor has (i) with respect to the Project Lands, incurred any current and outstanding liability for any clean-up or remedial action under any Environmental Law with respect to current or past operations, events, activities, practices or incidents relating thereto, (ii) received any outstanding written request for information (other than information to be provided in the normal course in connection with applications for licences, permits or approvals) by any Person under any Environmental Law with respect to the condition, use or operation of the Project Lands, (iii) received any outstanding written notice or claim under any Environmental Law with respect to any material violation of or liability under any Environmental Law or relating to the presence of Hazardous Substance on or originating from the Project Lands, that, in any such case, would or could reasonably be expected to cause a Material Adverse Change, or (iv) ever been convicted of an offence or subjected to any judgment, injunction or other proceeding for non-compliance with any Environmental Law with respect to the Project Lands or been fined or otherwise

sentenced or settled such prosecution or other proceeding short of conviction for non-compliance with any Environmental Law with respect to the Project Lands.

- (f) Copies of all material analysis and monitoring data for soil, ground water, surface water and the like and reports pertaining to any environmental assessments/audits, including without limitation any inspections, investigations and tests, relating to the Project Lands that were obtained, are in the possession or control of, or were carried out on behalf of, the Obligors have been delivered to the Administrative Agent.
- (g) Since acquiring its interest in the Project Lands, the Borrower has maintained all environmental and operating documents and records relating to the Project Lands substantially in the manner and for the time periods required by Environmental Law and Material Licences.
- (h) The Borrower has not defaulted in reporting in any material respect to any applicable Governmental Authority in relation to the Project Lands on the happening of an occurrence which it is or was required by any Environmental Law to report.

(21) Material Licences All Material Licences from third parties and Governmental Authorities have been obtained other than those not required or able to be obtained until a later stage of Construction or after Construction Completion (of the Project Phases, as applicable) and those not obtained may be reasonably expected to be received in the ordinary course of business prior to the date when required to permit the relevant Borrower to complete the transactions provided for in the Material Project Agreements and to construct and operate the Project Phases.

(22) Zoning, Uses and Expropriation

- (a) Except as disclosed in writing to the Administrative Agent, each Project Phase is zoned to permit the Construction and operation of such Project Phase.
- (b) The existing and proposed uses of the Project comply in all material respects with all Applicable Law.
- (c) It has not received notice of any proposed rezoning of all or any part of the Project that would be reasonably likely to cause a Material Adverse Change in respect of the Construction of the Project or otherwise.
- (d) It has not received notice of any expropriation of all or any part of the Project Lands.

(23) Undisclosed Liabilities There are no liabilities (including contingent liabilities) that, in the aggregate, are material in respect of the Project or any of the Obligors, or their respective businesses, which have not been previously disclosed in writing to the Lenders.

(24) Liens None of the Obligors has received notice of any Encumbrances related to the Project Lands, other than Permitted Encumbrances.

(25) Insolvency None of the Obligors (i) has committed any act of bankruptcy, (ii) is insolvent, or has proposed, or given notice of its intention to propose, a compromise or arrangement to its creditors generally, (iii) has made any petition for a receiving order in bankruptcy filed against it, made a voluntary assignment in bankruptcy, taken any proceeding with respect to any

compromise or arrangement, taken any proceeding to have itself declared bankrupt or wound-up, taken any proceeding to have a receiver appointed of any part of its assets, has had any Encumbrancer take possession of its Property, or (iv) has had an execution or distress become enforceable or become levied on, in the case of the Borrower, any or, in the case of any other Obligor, any material portion, of its assets and property.

(26) No Infringement To the best of the knowledge of the Borrower after due enquiries, the Construction and operation of the Project does not infringe and will not infringe upon any patents, trademarks, trade names, service marks, or copyrights, domestic or foreign, or any other industrial property or intellectual property of any other Person, which infringement would likely have a Material Adverse Change.

(27) Setbacks To the best of the knowledge of the Borrower, the location of any buildings on the Project are or will be, to the extent they have been constructed or will be constructed in accordance with the Plans and Specifications, within the boundary lines of the Project as a whole and are in compliance with all applicable setback requirements.

(28) Real Property The only real property interests necessary for the Construction of the Project in accordance with the Plans and Specifications are the real property interests comprising the Project Lands and any easements, interests or rights appurtenant thereto.

(29) Letters of Credit The Borrower has not been required to obtain or provide any letters of credit in connection with the issuance of any Material Licence with respect to the Project save and except for any Letters of Credit issued hereunder.

(30) Full Disclosure All information provided or to be provided to the Administrative Agent and the Lenders in connection with the Credit Facilities is, to the Obligors' knowledge, true and correct in all material respects and none of the documentation furnished to the Administrative Agent and the Lenders by or on behalf of it, to its knowledge, omits or will omit as of such time, a material fact necessary to make the statements contained therein not misleading in any material way, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by it (and any other Person who furnished such material on behalf of it).

(31) Residency No Obligor is a non-resident for the purposes of Section 116 of the *Income Tax Act* (Canada).

(32) Debt. The Borrower has not incurred any Debt other than Permitted Debt.

(33) Insurance. The Borrower is in compliance with all terms and conditions of all insurance policies issued in respect of the Project.

(34) Construction Contracts. Each of the Construction Contracts is assignable by the Borrower without the consent of the Contractors thereunder and without a requirement to give notice of such assignment to such Contractor.

8.02 Survival and Repetition of Representations and Warranties

The representations and warranties set out in Section 8.01 survive the execution and delivery of this Agreement and all other Loan Documents and will be deemed to be repeated by the Obligors as of each Drawdown Date, except to the extent that on or prior to such date (a) the

Obligors have advised the Administrative Agent in writing of a variation in any such representation or warranty, and (b) if such variation, in the opinion of the Lenders, acting reasonably, is material to the Project or the Property, liabilities, affairs, business, operations, prospects or condition (financial or otherwise) of any Obligor considered as a whole or could have, or be reasonably likely to result in, a Material Adverse Change, the Lenders have approved such variation.

ARTICLE 9 – COVENANTS

9.01 Positive Covenants

So long as this Agreement is in force and except as otherwise permitted by the prior written consent of the Required Lenders, each of the Obligors (as applicable) will:

(1) **Timely payment** Make due and timely payment of the Obligations required to be paid by it hereunder.

(2) **Conduct of Business, Maintenance of Existence, Compliance with Laws** Engage in business of the same general type as now conducted by it; carry on and conduct its business and operations in a proper, efficient and businesslike manner, in accordance with good business practice; subject to Section 9.03(3), preserve, renew and keep in full force and effect its existence; and take all reasonable action to maintain all rights, privileges and franchises necessary in the normal conduct of its business and to comply in all material respects with all Material Project Agreements, Material Licences and Requirements of Law, including Requirements of Environmental Law and the Condominium Act, including, without limitation, the establishment and maintenance of a replacement reserve (where such replacement reserve is required under the Condominium Act).

(3) **Further Assurances** Use reasonable efforts to provide the Administrative Agent and the Lenders with such other documents, opinions, consents, acknowledgments and agreements as are reasonably necessary to implement this Agreement and the other Loan Documents from time to time.

(4) **Access to Information** Promptly provide the Administrative Agent, the Lenders and the Independent Cost Consultant with all information reasonably requested by any of them from time to time at reasonable intervals in connection with this Agreement concerning its financial condition and the Project (including, without limitation, the Plans and Specifications, the Project Budgets, the status of Construction, Material Project Agreements and Material Licences), and during normal business hours and from time to time at reasonable intervals upon reasonable notice, permit representatives of the Administrative Agent and the Lenders to inspect the Project and to examine and take extracts from its financial records, including records stored in computer data banks and computer software systems regarding the Project, and to discuss its financial condition with its senior officers and its auditors, the reasonable expense of all of which will be paid by the Borrower. All such examinations, visits and inspections of the Lenders shall be coordinated through the Administrative Agent for logistics purposes in order to minimize the number of such examinations, visits and inspections.

(5) **Obligations and Taxes** Pay or discharge, or cause to be paid or discharged, before the same will become delinquent (i) all Taxes imposed upon it or upon its income or profits or in respect of its business or Property (including the Project) and file all tax returns in respect thereof, (ii) all lawful claims for labour, materials and supplies, (iii) all required payments under any of its Debt, and (iv) all other obligations; provided, however that it will not be required to pay or discharge

or to cause to be paid or discharged any such amount so long as the validity or amount thereof is being contested in good faith by appropriate proceedings and an appropriate financial reserve in accordance with GAAP and satisfactory to the Administrative Agent has been established, and, if the aggregate amount being contested is in excess of \$100,000, the Borrower will have deposited with the Administrative Agent or the appropriate Governmental Authority collateral satisfactory to the Administrative Agent or such Governmental Authority, as the case may be, to secure the payment of such Taxes and so long as the Administrative Agent is satisfied that its Security is not in jeopardy.

(6) Use of Credit Facilities Use the proceeds of the Credit Facilities only for the purposes specified in Section 2.04.

(7) Construction Insurance From the date hereof until Substantial Completion of a Project Phase, the Borrower shall maintain or cause to be maintained with insurance companies acceptable to the Lenders, acting reasonably:

- (a) all risks builder's risk (including coverage against the perils of earthquake, flood, testing and commissioning Hard and Soft Costs) coverage for the full replacement cost of the Project Phase, excluding land costs. Such insurance shall:
 - (i) include a soft cost endorsement in an amount of not less than 25% of total Soft Costs;
 - (ii) name the Borrower as first named insureds thereunder and as additional insureds all those required to be named as additional insureds under any of the Material Project Documents;
 - (iii) name the Administrative Agent as mortgagee and first loss payee and have attached the standard Insurance Bureau of Canada mortgage clause;
 - (iv) provide that no cancellation or termination thereof, for any reason whatsoever (with the exception of cancellation due to non-payment of premium for which 15 days statutory notice of cancellation may apply), shall take effect unless the insurer concerned has given the Administrative Agent not less than 30 days prior written notice of such proposed action;
 - (v) contain a waiver by the insurer or insurers of all rights of subrogation or indemnity or any other claim to which such insurer or insurers might otherwise be entitled against the Administrative Agent or any Lender; and
 - (vi) otherwise be in such form as the Required Lenders shall reasonably require or as required under any of the Material Project Documents;
- (b) wrap-up liability insurance with a minimum combined single limit of liability of not less than \$20,000,000 per occurrence. Such insurance shall:
 - (i) name the Borrower as first named insureds and the Administrative Agent as an additional insured and name all others required to be named under any of the Material Project Documents, including architects, engineers, consultants, contractors, sub-contractors and trades of every tier as additional insureds;

- (ii) provide that no cancellation or termination thereof, for any reason whatsoever (with the exception of cancellation due to non-payment of premium for which 15 days statutory notice of cancellation may apply), shall take effect unless the insurer concerned has given the Administrative Agent not less than 30 days prior written notice of such proposed action;
- (iii) contain a waiver by the insurer of all rights of subrogation or indemnity or any other claim to which the insurer might otherwise be entitled against the Administrative Agent or any Lender and others to whom any Borrower has granted such waivers under any of the Material Project Documents;
- (iv) contain a cross-liability clause and a severability of interests clause; and
- (v) otherwise be in such form as the Required Lenders shall reasonably require or as required under any of the Material Project Documents.

The Borrower will provide detailed certificates of insurance for all policies required hereunder to be purchased and maintained by the Borrower in form acceptable to the Administrative Agent, acting reasonably, provided that the Lenders shall, pursuant and subject to the provisions of Section 9.01(4), be entitled to review at the Borrower's offices or the offices of the Borrower's insurance broker, the underlying policies of insurance relating to such certificates of insurance.

(8) Operating Insurance After Substantial Completion of a Project Phase has been achieved, so long as the Borrower have an ownership interest in same and so long as any amounts are due hereunder, maintain or cause to be maintained all risks insurance (on a replacement cost, stated amount (no co-insurance) basis, general liability insurance and such other insurance in form and in such amounts and with such deductibles as are customary in the case of owners of projects similar to the applicable Project Phase and in any event as are acceptable to the Required Lenders. The Administrative Agent shall be named as first mortgagee and first loss payee or additional insured, as applicable, under such policies. The foregoing shall not apply with respect to the lands and buildings in respect of which a condominium corporation has been created by registration of a Declaration under the Condominium Act and which has obtained the insurance coverages required by the Condominium Act and the Declaration (and associated by-laws).

(9) Proceeds of Insurance With regard to the insurance described in Sections 9.01(7) or (8), subject to the terms of any Insurance Trust Agreement, the Permitted Encumbrances and Material Project Agreements having priority over the Security, the following shall apply:

- (a) So long as no Default or Event of Default has occurred and is continuing, the proceeds of all such insurance (other than workers' compensation insurance, errors & omissions insurance and third party liability insurance which may be remitted to the Borrower without condition or further action by the Administrative Agent) shall be dealt with as follows:
 - (i) If the total amount of such proceeds equals or exceeds Cdn. \$1,000,000, they shall be payable directly into an escrow account of the Borrower (which account shall be held with the Administrative Agent and subject to the security interest created by the Security) to be disbursed by the Administrative Agent against receipts payable in not more than 30 days for expenses incurred in repairing the damage or destruction or replacing property in respect of which the insurance is payable, for release by the

Administrative Agent to the Borrower to be applied by the Borrower in repairing the damage or destruction or replacing property in respect of which the insurance is payable upon receipt of:

- (A) an Officer's Certificate of the Borrower stating that the proceeds of such insurance together with other funds held or arranged by the Borrower is sufficient to fully repair, rebuild or replace the damage or destruction in respect of which the insurance proceeds are payable;
 - (B) a letter of undertaking of the Borrower to fully repair, rebuild and replace the damage or destruction in respect of which the insurance proceeds are payable; and
 - (C) evidence satisfactory to the Administrative Agent that the proceeds of insurance together with the other funds held or arranged by the Borrower will be sufficient to repair, replace or rebuild the damage or destruction in respect of which the insurance proceeds are payable.
- (ii) The proceeds of any business interruption insurance shall be payable to the Borrower, as their interests may appear, to be applied on account of ongoing obligations of the Borrower hereunder or in respect of the Project as the same fall due from time to time.
- (iii) The proceeds of all insurance held by the Administrative Agent shall, unless and until the same are applied or released to the Borrower as aforesaid, constitute continuing collateral security for the Borrower's obligations and liabilities in respect of amounts outstanding hereunder. The Administrative Agent shall place such funds in interest-bearing term deposits with the interest thereon to accrue to the benefit of the Borrower.
- (iv) If the total amount of such proceeds is less than Cdn. \$1,000,000, they shall be released to the Borrower subject to delivery of the documents set out in Section 9.01(9)(a)(i)(A), (B) and (C).
- (b) If an Event of Default has occurred and is continuing:
- (i) The proceeds of all insurance other than workers' compensation insurance, errors and omissions insurance and third party liability insurance shall be payable to the Administrative Agent and subject to the Security, to be applied by it, at its option, in reduction of the amounts outstanding hereunder or released by the Administrative Agent to the Borrower upon receipt of:
 - (A) an Officer's Certificate of the Borrower stating that the proceeds of such insurance together with other funds held or arranged by the Borrower is sufficient to fully repair, rebuild or replace the damage or destruction in respect of which the insurance proceeds are payable;
 - (B) a letter of undertaking of the Borrower to fully repair, rebuild and replace the damage or destruction in respect of which the insurance proceeds are payable; and

- (C) evidence satisfactory to the Administrative Agent that the proceeds of insurance together with the other funds held or arranged by the Borrower will be sufficient to repair, replace or rebuild the damage or destruction in respect of which the insurance proceeds are payable.
 - (ii) The proceeds of any business interruption insurance shall be payable to the Administrative Agent to be held by the Administrative Agent as additional security for the payment of all amounts payable hereunder, to be applied on account of ongoing obligations of the Borrower hereunder or in respect of the Project as the same fall due from time to time and, to the extent of any surplus, firstly to arrears of such payments and thereafter, if the Administrative Agent has opted to release proceeds of insurance to the Borrower pursuant to and in accordance with Section 9.01(9)(b)(i), then the balance of the proceeds of business interruption insurance shall be payable to the Borrower, failing which the balance, if any, remaining after application of such proceeds as aforesaid shall be paid to the Lender as partial prepayment of the Loans.
 - (iii) The proceeds of all insurance held by the Administrative Agent shall, unless and until the same are applied or released to the Borrower as aforesaid, constitute continuing collateral security for the Borrower's obligations and liabilities in respect of amounts outstanding hereunder. The Administrative Agent shall place such funds in interest-bearing term deposits with the interest thereon to accrue to the benefit of the Borrower (but subject to the security interest created under the Security).
- (10) Notice of Default Promptly notify the Administrative Agent of any Default or Event of Default that would apply to it of which it becomes aware, using reasonable diligence.
- (11) Notice of Material Adverse Change Promptly notify the Administrative Agent of any Material Adverse Change or any matter that is likely to have a Material Adverse Change that would apply to it of which it becomes aware, using reasonable diligence.
- (12) Notice of Litigation Promptly notify the Administrative Agent on becoming aware of the occurrence of any litigation, dispute, arbitration or other proceeding the result of which if determined adversely would be a judgement or award against it would result in a Material Adverse Change to it, and from time to time provide the Administrative Agent with all reasonable information requested by the Administrative Agent concerning the status of any such proceeding.
- (13) Other Notices Promptly notify the Administrative Agent on becoming aware:
- (a) of any change of Control of the Borrower, Urbancorp Guarantor, Riverdale Guarantor or Beach Guarantor;
 - (b) if at any time the Project Costs are expected to exceed the current Budgeted Project Costs as set out in the most recent Project Budgets approved by the Lenders;
 - (c) of any labour controversy which would likely have a Material Adverse Change or materially delay the anticipated date of Substantial Completion or Construction Completion of any Project Phase;

- (d) of the occurrence of an event of Force Majeure, describing in reasonable detail the effects of such event on the Construction or operation of the Project, the action which the Borrower intend to take to remedy such event and the estimated date when the event of Force Majeure will be remedied and will cease to impair Construction or operation of the Project;
- (e) of the cessation of any event of Force Majeure;
- (f) of any circumstance of which it has notice or is aware which could result in a material breach of or default or non-performance by any party under the Material Project Agreements or of any condition entitling any party to terminate its obligations thereunder;
- (g) of any damage to or destruction of any Property that forms part of the Project, which might give rise to an insurance claim, if the cost of any repairs to or replacement of assets of the Borrower exceeds \$1,000,000;
- (h) of any material instrument related to the Project of which the Borrower has notice or is registered against title to the Project and provide to the Administrative Agent a true copy of such instrument;
- (i) of any threatened expropriation or notice of expropriation with respect to any portion of the Project Lands, such notice to be delivered forthwith upon the Borrower becoming aware of such threatened expropriation or their receipt of notice of such proceedings and the Borrower hereby covenant and agree that no such claim shall be compromised or settled without the prior written consent of the Lenders;
- (j) of any circumstance whereby the date of Substantial Completion of a Project Phase is expected by the Borrower or the Independent Cost Consultant to be delayed by three or more months; or
- (k) of any non-compliance in any material respect with Environmental Law relating to the Project Lands, and of any notice, investigation, non-routine inspection or material inquiry by any Governmental Authority in connection with any Environmental Law relating to the Project.

(14) Environmental Compliance

- (a) Operate the Project Lands in a manner such that no material obligation, including a clean-up or remedial obligation, will arise under any Environmental Law; provided, however, that if any such claim is made or any such obligation arises, it will immediately satisfy or contest such claim or obligation at its own cost and expense, and promptly notify the Administrative Agent upon learning of (a) the existence of Hazardous Substances located on, above or below the surface of the Project Lands or contained in the soil or water constituting such land (except those being stored, used, contained or otherwise handled in substantial compliance with Environmental Law), or (b) the occurrence of any reportable Release of Hazardous Substances into the air, land surface water or ground water that has occurred on or from such land, or (c) any other event or occurrence relating to the Project which, in the opinion of the Borrower, acting reasonably, is likely to give rise to a notice of non-compliance in any material respect with any Environmental Law.

- (b) Comply, and cause any other party that is acting under its authority to comply, in all material respects with all Environmental Law (including, but not limited to, obtaining any Material Licences or similar authorizations) relating to the Project.
- (c) Use its reasonable commercial efforts not to cause or permit a Release of any Hazardous Substance at, on, under, or near, the Project except in compliance with Environmental Law.
- (d) Provide the Administrative Agent with an environmental site assessment/audit report of the Project, or an update of such assessment/audit report: (i) upon the written request of the Administrative Agent if in its reasonable opinion there is a concern about the Borrower' compliance (as it relates to the Project) or the Project's compliance with Environmental Law, all in scope, form and content satisfactory to the Administrative Agent; (ii) if such assessment/audit report has been prepared at the request of or on behalf of any Governmental Authority; or (iii) if an Event of Default relating to an environmental matter has occurred, and the Administrative Agent has made a written request to the Borrower for such an assessment/audit report or update, within 30 Business Days after such request, and all such assessments/audits reports or updates thereof shall be at the Borrower' expense and risk; an environmental site assessment/audit may include, for purposes of this Section, without limitation, any inspection, investigation, test, sampling, analysis, monitoring pertaining to air, land and water relating to the Project reasonably required under the circumstances giving rise to the request for the assessment/audit report.
- (e) Not use the Project, or permit it to be used, to generate, manufacture, refine, treat, transport, store, handle, dispose, transfer, produce or process Hazardous Substances except in compliance with all Environmental Law.
- (f) Maintain in all material respects all environmental and operating documents and records, including, without limitation, Material Licences and orders, relating to the Project in the manner and for the time periods required by Environmental Law.

(15) Security Provide the Administrative Agent with the Security required from time to time pursuant to Article 10 in accordance with the provisions of such Article, accompanied by supporting resolutions, certificates and opinions in form and substance satisfactory to the Administrative Agent, acting reasonably, and do all such further acts and execute and deliver all such documents and instruments as may from time to time be requested by the Administrative Agent, acting reasonably, to ensure that the Security constitutes at all times valid, enforceable, and perfected first priority Encumbrances against the Project Lands (subject only to Permitted Encumbrances).

(16) Maintenance of Property Keep all Property necessary for its business in good working order and condition, normal wear and tear excepted, except to the extent that the failure to do so would not individually or in the aggregate be reasonably likely to cause a Material Adverse Change.

(17) Adequate Books Maintain adequate books, accounts and records in accordance with GAAP consistently applied.

(18) Material Project Agreements

- (a) At all times be and remain in full compliance in all material respects with all of its covenants, agreements and obligations in and diligently enforce all its material rights under all Material Project Agreements if non-compliance would have a Material Adverse Change. No Obligor shall alter, amend or waive, in any material respect, any of its rights under or permit any termination or surrender of any Material Project Agreement, without the prior written consent of the Administrative Agent, unless such alterations, amendments, waivers, terminations or surrenders, as applicable, reflect, in all material respects, good business practice, are in the ordinary course of business, and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors at the time.
- (b) Advise the Administrative Agent in writing of all new Material Project Agreements (or any material amendments of existing Material Project Agreements) entered into forthwith following the entering into thereof and shall deliver forthwith a copy thereof to the Administrative Agent. The Borrower shall provide written notice to the Administrative Agent of any assignment made by a contracting party to a Material Project Agreement.

(19) Access Permit the Administrative Agent and the Lenders (through their agents, officers or employees), for the purposes of monitoring compliance with the covenants and obligations of the Borrower hereunder, at their risk, to visit and inspect the Project Lands to conduct tests, measurements and surveys in relation to the Project, provided that such tests, measurements and surveys are conducted in accordance with prudent industry practice and Applicable Law and/or are required as a result of the reasonable concerns of the Administrative Agent or the Lenders as to non-compliance with such covenant and obligation, and to be advised as to the same by the officers, engineers and advisers of the Borrower (or such other Persons as may be appropriate), all at such reasonable times and intervals as the Administrative Agent or any Lender may desire upon reasonable prior notice and in the presence of the Borrower if it so desires. Such visits, inspections, measurements, reviews and tests etc. shall be at the cost of the Borrower, provided such expenses are reasonably incurred. Any such visit, inspection, examination, discussion or tests shall not be deemed to be supervision, charge, management, control or occupation by the Administrative Agent or the Lenders for purposes of any environmental or other liabilities.

(20) Consultants Permit the Lenders, and the Lenders shall have the right, to appoint the Independent Cost Consultant and an independent insurance consultant to assist the Lenders with (i) reviewing and approving the insurance policies maintained by the Borrower for the Project, the Project Budgets, the Construction Schedules, the Plans and Specifications and the Material Project Agreements, (ii) projecting the Cost to Complete and determining the Costs in Place Margin for any Project Phase, (iii) advising the Administrative Agent and the Lenders as to whether the Project has been constructed in accordance with prudent industry practice, Applicable Law, the Project Budgets, the Plans and Specifications, the Material Project Agreements and the Material Licences, and (iv) performing such additional functions as the Administrative Agent shall reasonably request. The Borrower shall pay all reasonable fees, costs and expenses of the Independent Cost Consultant and insurance consultant.

(21) Remedy of Force Majeure Use its reasonable commercial efforts to remedy or cause to be remedied any event of Force Majeure or causes thereof; provided that notwithstanding the foregoing, no party shall be required to settle strikes of its employees or of employees of its contractors, sub-contractors and others on terms which it reasonably regards as unreasonable.

(22) Management and Control of Project Diligently and continuously proceed with and manage the Construction of, and operate, the Project in all material respects in accordance with: (i) prudent industry practice; (ii) the Material Project Agreements and Material Licences; (iii) the Project Budgets; (iv) all warranties; (v) the Plans and Specifications; and (vi) the Construction Schedules. Subject to Force Majeure, it shall not abandon (for a single period of 20 days or more), and shall ensure that there is no abandonment of, the Project.

(23) Construction Lien Act (Ontario) Comply with the provisions of the *Construction Lien Act* (Ontario), including, without limitation, retaining the Holdbacks required thereby.

(24) HST Refunds File on a monthly basis all returns and other documents necessary to obtain the refund of HST in respect of the Project and apply the amount of any such refund to payment of Project Costs.

(25) "As-Built" Survey - (Survey of Permanent Structures) Within 60 days after Substantial Completion of a Project Phase, deliver to the Administrative Agent an "As-Built" survey of the applicable Project Phase, prepared and certified by a land surveyor qualified to practise in Ontario which will identify, *inter alia*, the location of all easements and rights of way affecting the applicable Project Phase.

(26) Project Equity, Margin Deficiencies and Cost Overruns Maintain Project Equity in an amount of no less than the Minimum Project Equity and fund any margin deficiencies and/or Cost Overruns on a line by line basis (after allocation of contingencies and demonstrable savings) by an additional contribution of Project Equity. Without limiting the foregoing, if at any time a Letter of Credit issued under the LC Facility is drawn upon and such amount, or any portion thereof, does not form part of the Project Budget at the time of such draw, then the Borrower shall contribute additional Project Equity in an amount equal to such drawn amount or portion, as the case may be.

(27) Signage Upon the request of the Administrative Agent, cause any sign to be provided by the Lenders erected in respect of the Project to contain an acknowledgement of the financing provided by the Lenders, the size and format of such acknowledgement to be (i) similar to that of other major providers of services in respect of the Project, and (ii) consistent with that used by Lenders on other projects in Toronto similar to the Project. Such sign may be removed by the Borrower upon achievement of Substantial Completion of both Project Phases.

(28) Project Accounts Maintain a separate operating account for each Project Phase with the Administrative Agent during the term of this Agreement and cause all funds received from a Project Phase to be deposited to, and all disbursements for accounts payable or otherwise to be paid from, the account applicable to such Project Phase.

(29) Non-Disturbance Agreements In respect of any Lease where the Administrative Agent requests, obtain from the tenant under such Lease an attornment and non-disturbance agreement in a form acceptable to the Administrative Agent, acting reasonably.

(30) Postponement to Material Project Agreements Use their commercially reasonable efforts to cause each counterparty to a Material Project Agreement, which Material Project Agreement will be, or notice thereof will be, registered on title to such counterparty's land, to register such Material Project Agreement or notice thereof and cause any mortgagee of such counterparty to postpone its mortgage to such Material Project Agreement, or notice thereof, as applicable.

(31) Maintenance of Qualified Presales and Purchaser Deposits Maintain at all times a sufficient number of Unit Sales Agreements that constitute Qualified Presales such that the aggregate of Gross Sale Prices thereunder totals not less than \$82,000,000 and that a minimum of 5% of Purchaser Deposits in respect of the Project been received (with a minimum of 10% Purchaser Deposit supporting each Unit purchase) and are being used by the Borrower to fund Project Costs.

(32) Title Warrant and defend the Borrower' title to the Project Lands and every part thereof against the claims of all Persons whomsoever and do, observe and perform all obligations and all things necessary or expedient to be done, observed or performed by virtue of any Applicable Law for the purpose of creating, maintaining and keeping maintained the Security constituted by the Loan Documents as valid and effective security with the priority required hereunder.

(33) Voting Rights Following the residential component of any Project Phase being registered as a plan of condominium, upon receipt of a request from the Administrative Agent, to name the Administrative Agent as the Borrower's proxy, to attend and to vote at meetings of unit owners, or in the alternative, at the option of the Administrative Agent, to act as the proxy of the Administrative Agent at such meetings and to vote its interest as the Borrower and the Administrative Agent may agree upon, and for this purpose, the Borrower assigns its voting rights to the Administrative Agent. Any notice of such assignment, required by Applicable Law, shall be given by the Borrower in accordance with the requirements of such Applicable Law.

(34) Purchaser Deposit Account Maintain or instruct Obligors' Counsel to maintain a separate trust account for Purchaser Deposits in respect of the Leslieville Project Phase with the Administrative Agent during the term of this Agreement and cause all Purchaser Deposits in respect of the Leslieville Project Phase to be deposited to and all releases of Purchaser Deposits in respect of the Leslieville Project Phase to be paid from such trust account.

9.02 **Reporting Requirements**

So long as this Agreement is in force and except as otherwise permitted by the prior written consent of the Required Lenders, each of the Obligors will deliver to the Administrative Agent:

- (1) Annual Reports
 - (a) as soon as available and in any event within 120 days after the end of each of its Fiscal Years, the accountant prepared unaudited financial statements (on a review basis) of the Borrower, Urbancorp Guarantor, Riverdale Guarantor and Beach Guarantor;
 - (b) as soon as available and in any event within 45 days after the end of each Fiscal Quarter, the internally prepared unaudited financial statements of the Borrower;

including, in each case for (a) and (b) above, where applicable, balance sheet, statement of income and retained earnings, statement of changes in financial position and source and application of funds for such Fiscal Year or Fiscal Quarter, as applicable, which will be prepared in accordance with GAAP and certified by an officer of the applicable Obligor; and

- (c) as soon as available and in any event within 90 days of the end of the calendar year, a personal net worth statement from the Saskin Guarantor.
- (2) Compliance Certificate A Compliance Certificate concurrently with the delivery of the financial statements referred to in Section 9.02(1).
- (3) Monthly Reports – In the event a Drawdown is not made under the Construction Facility applicable to such Project Phase in any month, within 30 days of such month end:
 - (a) a certificate from the Borrower substantially in the form of Schedule 9.02(3)(a) in respect of the applicable Project Phase;
 - (b) a report showing Hard Costs and Soft Costs incurred to date, the cumulative positive or negative value of any change orders, the amount of any Holdbacks and the current Cost to Complete in respect of the applicable Project Phase;
 - (c) an update to the applicable Project Budget and applicable Project Schedule together with comments on any material variances from the original applicable Project Budget and original applicable Construction Schedule provided to the Lenders;
 - (d) comments on any material changes to the Project Phase or any potential or actual problem areas which have been identified and may affect completion of the Project Phase in accordance with the applicable Project Budget and applicable Construction Schedule provided to the Lenders;
 - (e) a Project consultants' certificate(s), substantially in the form of Schedule 9.02(3)(e) in respect of the applicable Project Phase; and
 - (f) an updated schedule of pre-sales, including purchaser name and current address, unit number of the Unit being acquired, asking price, sale price, deposit status (including location of deposit, amount paid to date and amount and timing of deposit yet to be paid) and closing date and any special conditions in respect of the applicable Project Phase;
- (4) Insurance Reporting Concurrently with the renewal or placement of any insurance required to be maintained by Section 9.01(7) or 9.01(8), delivery to the Administrative Agent of certificates of insurance relating to such insurance; and
- (5) Other Information Such other information as it may reasonably request respecting the Obligors or the Project.
- (6) KYC Documentation and Anti-Money Laundering. The Obligors acknowledge that the Lenders have certain anti-money laundering and anti-terrorism responsibilities under various laws and regulations and that from time to time the Administrative Agent and the Lenders (including any prospective assignee or participant) may request information in order to comply with Applicable Laws and internal requirements (including any applicable “know your customer” or “know your client” requirements) the Obligors covenant and agree, upon request, to promptly provide the Administrative Agent such additional information as may be reasonably requested. Each Obligor shall also provide the Administrative Agent with prompt written notice of any change in ownership, key officers or directors after the date of this Agreement. The Borrower covenant and agree that the proceeds of any Drawdown under the Credit Facilities shall not be required or invested in order to

support domestic or international terrorism and shall not be directly or indirectly derived from activities that may contravene Applicable Laws, including anti-money laundering laws and regulations.

9.03 **Negative Covenants**

So long as this Agreement is in force and except as otherwise permitted by the prior written consent of the Required Lenders, the Obligors will not:

(1) **No Sale of Project** Other than: (a) sales made pursuant to the terms of Unit Sales Agreements, (b) the Disposition of other premises pursuant to Leases as permitted hereunder, or (c) Dispositions otherwise contemplated in Sections 10.04, 10.05, 10.06 or 10.08, Dispose of the Project or any part thereof or interest therein except as contemplated herein, unless approved by the Lenders but, for greater certainty, the Borrower may Dispose of machinery or equipment and machinery and equipment that is being replaced and otherwise in accordance with the provisions of this Agreement.

(2) **No Transfer of Interest in Borrower** Permit any Disposition of any interest in the Borrower, the Urbancorp Guarantor, Riverdale Guarantor or Beach Guarantor.

(3) **No Consolidation, Amalgamation, etc.** Consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction intended to effect or otherwise permit a change in its existing corporate structure, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution without the consent of the Required Lenders, which consent will not be unreasonably withheld provided the Required Lenders are satisfied the proposed resulting entity will be in at least the same, or better, financial position and project development and management ability as the relevant Obligor prior to such transaction.

(4) **No Change of Name** Change its name without providing the Administrative Agent with 30 days' prior written notice thereof.

(5) **No Distributions** In the case of the Borrower, make any Distribution until (i) all Loans outstanding under the Construction Facilities have been repaid in full and the Lenders have no obligation to make Drawdowns thereunder, (ii) any Letters of Credit outstanding under the LC Facility have been fully cash collateralized on a dollar for dollar basis or are secured by the Security such that the value (determined based on the cost of construction thereof) of the unsold Units in the Project secures the aggregate face amount of such Letters of Credit on a 2:1 basis, and (iii) all Loans outstanding under the Capital Loan Facility have been repaid in full and the Lenders have no obligations to make Drawdowns thereunder.

(6) **No Encumbrances** Create, incur, assume or permit to exist any Encumbrance upon the Project Lands except Permitted Encumbrances and, except for Permitted Encumbrances, not to, without the prior written consent of the Lenders, grant, create, assume or suffer to exist any mortgage, charge, lien, pledge, security interest or other financial Encumbrance affecting any of its other Property.

(7) **No Change to Year End** Make any change to its Fiscal Year end.

(8) **No Continuance** Continue into any other jurisdiction.

(9) Amendments to Organizational Documents Amend any of its Organizational Documents in a manner that would be prejudicial to the interests of any of the Lenders under the Loan Documents.

(10) Amendments to Material Project Agreements Except as otherwise contemplated in Section 9.01(18)(a), amend, vary or alter in any material way, consent to any assignment or transfer of, or waive or surrender any of its material rights or material entitlements under, any Material Project Agreement.

(11) Amendment of Project Budgets Without the prior written consent of the Required Lenders, not to be unreasonably withheld, and the concurrence of the Independent Cost Consultant, make cumulative positive or negative changes to a Project Budget, including, for greater certainty, cumulative positive or negative changes to individual line items within such Project Budget (whether or not resulting in a change to the aggregate Budgeted Project Costs) and regardless of whether such changes are within the initial contingency budget, unless:

- (a) such changes do not exceed \$500,000 in the aggregate;
- (b) the Contingency Amount in such Project Budget continues to be reasonable and adequate to ensure Construction Completion of the applicable Project Phase; and
- (c) there is no adverse effect on the overall quality or change in the scope of the applicable Project Phase a result of the changes.

Upon any revision of a Project Budget, the Borrower will forthwith provide a copy to the Administrative Agent.

(12) Amendment of Plans and Specifications Revise the Plans and Specifications in any material respect, except with the consent of the Lenders, such consent not to be unreasonably withheld. Upon revision of the Plans and Specifications, the Borrower will forthwith provide a copy to the Administrative Agent.

(13) Amendment of Construction Schedule Revise the Construction Schedules to permit completion of Construction later than that contemplated in the then current Construction Schedules, except with the consent of the Administrative Agent, acting reasonably, and provided, if required, the Borrower can demonstrate that they have contributed additional Project Equity sufficient to cover any increased Budgeted Project Costs arising in connection therewith. Upon revision of a Construction Schedule, the Borrower will forthwith provide a copy to the Administrative Agent.

(14) Unit Vendor Take Back Mortgages The Borrower shall not enter into any Unit Sales Agreement which contains a provision allowing for partial or full payment of the purchase price payable thereunder by way of a vendor take back mortgage or other Debt instrument in favour of the Borrower (the intent being that all net proceeds of the sale of Units shall be in the form of cash).

(15) Assignment of Unit Sales Agreements The Borrower will not consent to any assignment by a purchaser under a Unit Sales Agreement unless (i) the Borrower retain the Purchaser Deposits paid thereunder or a replacement Purchaser Deposit in at least the same amount has been received and (ii) the original purchaser is not released from its obligations thereunder.

(16) Letters of Credit Not obtain letters of credit required for the Project other than Letters of Credit issued by the LC Lender under the LC Facility.

(17) Leasing Enter into any Leases or renew, amend, terminate, forfeit or cancel any Leases unless such Leases, amendments, renewals, terminations, forfeitures or cancellations reflect in all material respects good business practice and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors and the leasing practice in the market at the relevant time.

(18) Concerning Leases Generally Accept or require payment of rent or other moneys payable by a tenant under any Lease that would result in more than one month of such rent or other moneys being prepaid under such Lease other than:

- (a) prepaid rent or deposits on account of rent which represents the portion of the cost of construction of the relevant demised premises which exceeds the portion of such cost which was used as the basis for determining the basic rental otherwise payable under such Lease; or
- (b) amounts representing a bona fide precalculation of any amount that is required to be paid under such Lease in addition to basic rental, including amounts payable with respect to taxes and maintenance of the Project and overage and percentage rentals; or
- (c) lease surrender payments and security deposits made by the tenant under such Lease.

(19) Residency Become a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada).

(20) New Debt In respect of the Borrower, Riverdale Guarantor and Beach Guarantor, incur any Debt other than Permitted Debt.

(21) No Material Subsidiaries In respect of the Borrower, create any Material Subsidiary after the date of this Agreement.

ARTICLE 10- SECURITY

10.01 Security

As general and continuing security for the payment and performance of the Obligations, the security described below will be granted to the Administrative Agent on behalf of the Lenders:

- (a) the Debenture (and any Replacement Debenture granted to the Administrative Agent pursuant to Section 10.07);
- (b) the Assignment of Unit Sales Agreements and Deposits;
- (c) the Cost Overrun and Completion Guarantee;

- (d) the Direction re Closing Proceeds;
- (e) the Assignment of Construction Contracts;
- (f) the DBC Subordination Agreement;
- (g) the Certificate of Independent Legal Advice; and
- (h) such other security as the Administrative Agent requires, which is contemplated by this Agreement or which security more fully gives effect to the security contemplated by this Agreement.

10.02 **After Acquired Property and Further Assurances**

The Borrower will from time to time execute and deliver all such further deeds or other instruments of conveyance, assignment, transfer, mortgage, pledge or charge in connection with all Property related to the Project acquired by the Borrower after the date hereof, or as may be required to properly perfect the security interest of the Administrative Agent and the Lenders, or any of them, in any Property related to the Project.

10.03 **Form of Security**

The Security will be in form satisfactory to the Administrative Agent and Lenders, acting reasonably.

10.04 **Non-Material Dealings with Project Generally**

Unless there is an Event of Default that is continuing, each Obligor may in the ordinary course of business at any time and from time to time:

- (a) without receiving any consideration therefor, Dispose of, exchange, surrender or grant any part or parts of any of the then existing Project (not constituting a material portion thereof) or any licenses, easements, rights-of-way or rights in the nature of easements in respect of any part or parts of any of the then existing Project or the to a municipality or other Governmental Authority or transit commission or utility, or to an owner, lessee or licensee of any lands adjacent to then existing Project or separated therefrom by a public street or to such other Person as shall be designated by a Governmental Authority or such aforementioned owner, lessee or licensee (which may or may not include the grant or Disposition to the relevant Obligor of any land or any license or licenses, or easements, rights of way or rights in the nature of easements in, over, under or in respect of other lands), and the Administrative Agent shall release same from the Security or postpone the Security, as applicable, upon receipt of a written request of the Borrower or the Obligors' Counsel to the Administrative Agent stating that such grant, exchange, surrender or Disposition is necessary or desirable without regard to any consideration received by the Borrower therefor for the servicing, development or operation of the Project and would not cause a Material Adverse Change;
- (b) accept any ancillary lands, licenses, easements, rights-of-way or rights in the nature of easements, which shall thereafter form part of the Project on such terms as the Borrower may determine (provided such additional lands or rights shall be made

subject to the Security on terms and conditions satisfactory to the Administrative Agent, acting reasonably); and

- (c) create or permit to be created any Encumbrance of the type referred to in the definition of Permitted Encumbrances provided any applicable provisions of this Agreement are complied with.

10.05 **Performance of Obligations Under Permitted Encumbrances**

The Borrower may at any time and from time to time enter into any instrument or agreement described in items (iv), (xii) and (xiv) of the definition of Permitted Encumbrances without the consent of the Administrative Agent, and the Administrative Agent shall, without receiving any consideration therefor, postpone or subordinate the Security to such instrument or agreement and, if required by the other party to such instrument or agreement, concur in and/or consent to such instrument or agreement, in each case upon receipt by the Administrative Agent of the following:

- (a) a written request of the Borrower or Obligors' Counsel so to do; and
- (b) such other evidence and information as the Administrative Agent may reasonably require in respect thereof.

10.06 **Unit Discharge Program**

(1) The Borrower shall be entitled to a partial discharge of the Security as it relates to the applicable Units (and the corresponding parking, locker, communication units, sign units and common areas of the Project), upon payment to the Administrative Agent, for application in accordance with Section 6.01(5)6.01(4), of the following amounts:

- (a) where a Unit is sold pursuant to the terms of a Unit Sales Agreement that qualifies as a Qualified Presale, the Net Sale Proceeds; and
- (b) where a Unit is sold pursuant to the terms of a Unit Sales Agreement that does not qualify as a Qualified Presale, the greater of: (x) the Net Sale Proceeds; and (y) 95% of the Proforma Sale Price applicable to such Unit, net of the Purchaser Deposits allocable to such Unit and the closing costs and applicable sales Taxes in connection with the sale.

(2) Any payments received by the Administrative Agent pursuant to Subsection (1), above shall be applied, first, towards repayment of any Loans outstanding under the Credit Facilities pursuant to Section 6.01(5), second toward towards repayment of any Letters of Credit outstanding under the LC Facility and, third, towards any other Obligations payable hereunder. All such amounts repaid in respect of Loans or Letters of Credit shall result in a permanent reduction of the applicable Credit Facilities.

(3) The Administrative Agent shall execute such releases of the Security in respect of any Unit in respect of which a partial discharge is sought pursuant to Subsection (1) above in form and substance as the Borrower may reasonably require and shall deliver same to the Obligors' Counsel in escrow for delivery or release upon delivery to the Administrative Agent of the applicable amount described in Subsection (1) above.

10.07 **Condominium Documents/Replacement Debenture**

Provided that no Default or Event of Default has occurred and is continuing, the Administrative Agent agrees, from time to time upon the request of and at the expense of the Borrower, to execute and deliver a consent to the Borrower registering the Declaration pursuant to the Condominium Act, provided that all Condominium Documentation is provided to and found in all respects satisfactory to the Required Lenders and provided further that, upon the request of the Administrative Agent (which the Administrative Agent shall only make if, in its sole discretion, it believes that the occurrence of a Default, Event of Default or Material Adverse Change is imminent or reasonably likely to occur) the Borrower shall deliver to the Administrative Agent a further charge of the Project (in substantially the same form as the Debenture) with respect to all Units and the pro-rata share of common elements (the "**Replacement Debenture**"), which charge shall be registered after the date of registration of the Declaration on title to the Project.

10.08 **Lot Line Adjustments/Easements, etc. relating to the Project**

Unless there is an Event of Default that is continuing, the Borrower may in the ordinary course of business at any time and from time to time, without receiving any consideration therefor, Dispose of, exchange, surrender or grant any part or parts of any of the then existing Project or any licenses, easements, rights-of-way or rights in the nature of easements in respect of any part or parts of any of the then-existing Project in order to adjust lot lines or boundaries, or grant easements or other rights of way, relating to the Project or any component thereof as may be necessary to the good and proper operation of each portion of the Project, and the Administrative Agent shall, if necessary, amend or postpone or partially discharge the Security, as applicable, upon receipt of a written request of the Borrower or the Obligors' Counsel to the Administrative Agent setting forth the required action and the details of same (including an explanation as to the necessity thereof) and confirmation that same shall not result in a Material Adverse Change and the Administrative Agent is authorized to take such actions as may be necessary to effect same (provided that the Administrative Agent may require such opinions of Obligors' Counsel to be delivered in conjunction therewith as the Administrative Agent may require, acting reasonably).

ARTICLE 11-GUARANTEE

11.01 **Limitation on Liability and Indemnity**

(1) The Guarantors, jointly and severally, hereby unconditionally and irrevocably guarantee payment of the Obligations (including, without limitation, any Obligation of the Borrower to indemnify the Administrative Agent and/or the Lenders hereunder). The Lenders acknowledge and agree that notwithstanding any other provision of this Agreement or the Security (except in respect of Section 11.09, 11.10 and 14.04 hereof and in respect of the Cost Overrun and Completion Guarantee whereby recourse to each of the Guarantors shall be unlimited), the Obligations of the Saskin Guarantor and the Urbancorp Guarantor (in the aggregate) under, in connection with or in any way relating to, this Agreement, the Security, the Loans and the Credit Facilities is limited to \$30,000,000 together with the costs and expenses as provided in Section 11.09 and interest thereon as provided in Section 11.10. For greater clarity, the Obligations of the Beach Guarantor and the Riverdale Guarantor under, in connection with or in any way relating to, this Agreement, the Security, the Loans and the Credit Facilities are unlimited. The Guarantors each acknowledge that the foregoing guarantee is in addition to their obligations under the Cost Overrun and Completion Guarantee and any payments made under such Cost Overrun and Completion Guarantee shall not lessen in any way their obligations hereunder.

(2) If any or all of the Obligations are not duly paid and are not recoverable under Section 11.01(1) for any reason whatsoever, the Guarantors hereby, unconditionally and irrevocably and on a joint and several basis, will, as a separate and distinct obligation, indemnify and save harmless the Administrative Agent and the Lenders and each of them from and against any losses resulting from the failure of the Borrower to pay the Obligations.

(3) If any or all of the Obligations are not duly paid and are not recoverable under Section 11.01(1) or the Administrative Agent and the Lenders and each of them is not indemnified under Section 11.01(2), in each case, for any reason whatsoever, the Obligations will be recoverable jointly and severally from the Guarantors as primary obligors.

11.02 **Obligations Absolute**

The liability of the Guarantors hereunder is absolute and unconditional and is not affected by:

- (a) any lack of validity or enforceability of this Agreement or any other Loan Document;
- (b) any impossibility, impracticability, frustration of purpose, illegality, *force majeure* or act of Governmental Authority;
- (c) the bankruptcy, winding-up, liquidation, dissolution, arrangement, insolvency or other similar proceeding affecting the Borrower or any other Person, the amalgamation of or any change in the status, function, control or ownership of the Borrower or any other Person;
- (d) any lack or limitation of power, incapacity or disability on the part of the Borrower or of the directors, partners or agents thereof or any other irregularity, defect or informality on the part of the Borrower in its Obligations; or
- (e) any other law, regulation or other circumstance that might otherwise constitute a defence available to, or a discharge of, any Borrower in respect of any or all of the Obligations.

11.03 **No Release**

The liability of the Guarantors hereunder is not released, discharged, limited or in any way affected by anything done, suffered or permitted by the Administrative Agent, Lenders, or any of them or any other Person in connection with any duties or liabilities of the Borrower to the Administrative Agent, Lenders, or any of them or any Security including any loss of or in respect of any Security. Without limiting the generality of the foregoing and without releasing, discharging, limiting or otherwise affecting in whole or in part the liability of the Guarantors hereunder, without obtaining the consent of or giving notice to the Guarantors, the Administrative Agent, the Lenders and each of them may, subject to the terms of this Agreement and specifically the relationship between the Lenders and the Administrative Agent:

- (a) discontinue, reduce, increase or otherwise vary the credit of the Borrower in any manner whatsoever;

- (b) make any change in the time, manner or place of payment under, or in any other term of, any Loan Document or the failure on the part of the Borrower to carry out any of its obligations under any Loan Document;
- (c) grant time, renewals, extensions, indulgences, releases and discharges to the Borrower;
- (d) take or abstain from taking or enforcing the Security or from perfecting Security;
- (e) accept compromises from the Borrower;
- (f) apply all money at any time received from the Borrower or from the Security upon such part of the Obligations as the Administrative Agent, Lenders or each of them may see fit or change any such application in whole or in part from time to time as each of them may see fit; and
- (g) otherwise deal with the Borrower and all other Persons and the Security as the Administrative Agent, Lenders and each of them may see fit.

11.04 **No Exhaustion of Remedies**

None of the Administrative Agent or the Lenders is bound or obligated to exhaust its or their recourse against the Borrower or other Person or any Security it or they may hold, or take any other action before being entitled to demand payment from the Guarantors hereunder.

11.05 **Prima Facie Evidence**

Any account settled or stated in writing by or between the Administrative Agent or any Lender and the Borrower will be, in the absence of manifest error, prima facie evidence that the balance or amount thereof appearing due to the Administrative Agent and each Lender is so due.

11.06 **No Set-Off**

In any claim by the Administrative Agent, the Lenders or any of them against the Guarantors, the Guarantors may not assert any set-off or counterclaim that the Guarantors may have against the Administrative Agent, the Lenders or any of them.

11.07 **Continuing Guarantee**

The Obligations of the Guarantors hereunder will constitute and be continuing obligations and will apply to and secure any ultimate balance due or remaining due to the Lenders and will not be considered as wholly or partially satisfied by the payment or liquidation at any time of any sum of money for the time being due or remaining unpaid to any such Person. The Obligations of the Guarantors hereunder will continue to be effective even if at any time any payment of any of the Obligations is rendered unenforceable or is rescinded or must otherwise be returned by the recipient of such payment upon the occurrence of any action or event including the insolvency, bankruptcy or reorganization of the Borrower or otherwise, all as though such payment had not been made.

11.08 **Waivers by Guarantors**

The Guarantors hereby irrevocably waive acceptance hereof, presentation, demand, protest and any notice of this Agreement, as well as any requirement that at any time any action be taken by any Person against the Guarantors or any other Person.

11.09 **Demand**

The Guarantors will make payment to the Administrative Agent for the rateable benefit of the Lenders of the full amount of the Obligations and all other amounts payable by them hereunder forthwith after demand therefor is made to them (or either one of them). Notwithstanding Section 11.01 or any other provision of the Loan Documents, the Guarantors will also make payment to the Administrative Agent of 100% of all costs and expenses incurred by the Administrative Agent, the Lenders or any of them in enforcing the provisions of this Article 11, Section 14.04 and/or the Cost Overrun and Completion Guarantee against the Guarantors.

11.10 **Interest**

The Guarantors will pay interest to the Administrative Agent for the rateable benefit of the Lenders and each of them at the Prime Rate plus 5% *per annum* on the unpaid portion of all amounts payable by the Guarantors hereunder, such interest to accrue from and including the date of demand on the Guarantors (or either one of them), and will be compounded monthly.

11.11 **Assignment and Postponement**

All debts and liabilities, present and future, of the Borrower to the Guarantors (or either one of them) are hereby assigned to the Administrative Agent and the Lenders and postponed to the Obligations, and all money received by the Guarantors in respect thereof will be held in trust for the Administrative Agent and the Lenders and forthwith upon receipt will be paid over to the Administrative Agent, the whole without in any way lessening or limiting the liability of the Guarantors hereunder and this assignment and postponement is independent of the guarantee, indemnity and primary obligor obligations contained in this Article 11 and will remain in full force and effect until, in the case of the assignment, the liability of the Guarantors under this Agreement has been discharged or terminated and, in the case of the postponement, until all Obligations are performed and indefeasibly paid in full.

11.12 **Subrogation; Contribution**

The Guarantors will not be entitled to subrogation or to contribution from any other Person by reason of any payment hereunder until indefeasible payment in full of all Obligations and the termination of each Commitment. Thereafter, the Administrative Agent, on its own behalf and on behalf of the Lenders will, at the Guarantors' request and expense, execute and deliver to the Guarantors appropriate documents, without recourse and without representation and warranty, except as to the amount owing, necessary to evidence the transfer by subrogation to the Guarantors of an interest in the Obligations and any Security held therefor resulting from such payment by the Guarantors.

ARTICLE 12 - DEFAULT

12.01 Events of Default

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

- (a) if the Borrower fails to pay any amount of principal of any Loan when due;
- (b) if the Borrower fails to pay any interest, fees or other Obligations (other than any principal amount) when due and such default continues for three Business Days after notice of such default has been given by the Administrative Agent to the Borrower;
- (c) if the Borrower breaches any covenant in Section 9.03(1);
- (d) if any Obligor neglects to observe or perform, in any material respect, any covenant or obligation contained in this Agreement or any other Loan Document on its part to be observed or performed (other than a covenant or condition whose breach or default in performance is specifically dealt with elsewhere in this Section 12.01 or such Loan Document) and such Obligor fails to remedy such default within 30 days from the earlier of (i) the date such Obligor becomes aware of such default, and (ii) the date the Administrative Agent delivers written notice of the default to such Obligor, or where the Required Lenders (having regard to the subject matter of the default) have agreed, acting reasonably, that such default cannot be cured within such 30 days, such longer period as is required so long as such Obligor is diligently proceeding at all times to cure such default and provided that, in any event, such cure period shall not extend longer than four months without the consent of the Required Lenders, acting in their sole and absolute discretion;
- (e) if any information, representation or warranty given or made by any Obligor in this Agreement, any Loan Document or in any certificate or other document at any time delivered hereunder to the Administrative Agent or the Lenders proves to have been incorrect or misleading in any material respect on and as of the date that it was made or was deemed to have been made and such Obligor fails to remedy such default within ten (10) Business Days of the occurrence of such event (or such longer period as the Required Lenders may agree to having regard to the nature of such default and provided the affected Obligor is proceeding diligently to cure such default);
- (f) if any corporate Obligor ceases or threatens to cease to carry on business generally or any Obligor admits its inability or fails to pay its Debts generally;
- (g) if any Obligor denies, to any material extent, its obligations under any Loan Document or claims any of the Loan Documents to be invalid or withdrawn in whole or in part;
- (h) any of the Loan Documents or any material provision of any of them becomes unlawful or is changed by virtue of legislation or by a Governmental Authority, if any Obligor does not, within 15 Business Days of receipt of notice of such Loan Document or material provision becoming unlawful or being changed, replace such

Loan Document with a new agreement that is in form and substance satisfactory to the Required Lenders acting reasonably, or amend such Loan Document to the satisfaction of the Required Lenders acting reasonably;

- (i) if a decree or order of a court of competent jurisdiction is entered adjudging an Obligor a bankrupt or insolvent or approving as properly filed a petition seeking the winding-up of an Obligor under the Companies' Creditors Arrangement Act (Canada), the Bankruptcy and Insolvency Act (Canada), the United States Bankruptcy Code or the Winding-up and Restructuring Act (Canada) or any other bankruptcy, insolvency or analogous laws or issuing sequestration or a writ, attachment, seizure or process of execution against an Obligor or its assets or ordering the winding-up or liquidation of its affairs, and any such decree or order continues unstayed and in effect for a period of 30 days;
- (j) if any Obligor becomes insolvent, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *United States Bankruptcy Code*, the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition;
- (k) if an Encumbrancer takes possession, by appointment of a receiver, receiver and manager or otherwise, of: (i) all or any part of the Project Lands, or (ii) all or any material part of the remainder of the Project;
- (l) if proceedings are commenced for the dissolution, liquidation or voluntary winding-up of any Obligor, or for the suspension of the operations of any Obligor unless such proceedings are being actively and diligently contested in good faith;
- (m) if a final judgment or decree for the payment of money due has been obtained or entered against an Obligor in an amount, when combined with any other such judgment or decrees, is in an amount in excess of \$1,000,000 and such judgment or decree has not been and remained vacated, discharged or stayed pending appeal within the applicable appeal period or the applicable Obligor has not demonstrated to the satisfaction of the Required Lenders that it has the financial ability to satisfy such judgement or decree without adversely affecting in any material way, such Obligor's ability to perform its obligations under the Loan Documents;
- (n) if any Obligor (i) fails to make any payment when such payment is due and payable to any Person in relation to any Debt (other than Obligations) that in the aggregate principal amount then outstanding is in excess of Cdn. \$250,000 or (ii) defaults in the observance or performance of any other agreement or condition in relation to any such Debt or contained in any instrument or agreement evidencing, securing or

relating thereto, or any other event occurs or condition exists, the effect of which default or other condition, if not remedied within any applicable grace period, would be to cause, or to permit the holder of such Debt then to declare, such Debt to become due prior to its stated maturity date;

- (o) if any Security ceases to constitute a valid and perfected first priority security interest (subject only to Permitted Encumbrances) and, provided the Administrative Agent and the Lenders are satisfied that their position will not be prejudiced, the applicable Obligor has failed to remedy such default within five Business Days of becoming aware of such fact;
- (p) if an event of default occurs under any Material Project Agreement and remains uncured for five (5) Business Days beyond the cure period provided in such agreement in respect of such default;
- (q) if, except as permitted under Section 9.03(3), there is any reorganization of any Obligor or any consolidation, merger or amalgamation of any Obligor with any other company or companies, the effect of which would likely be a Material Adverse Change, or if a change of Control of any Obligor occurs;
- (r) if Construction of a Project Phase (that has not been Substantially Completed) ceases for a single period of 20 days or more, except for a period not exceeding six months which results due to Force Majeure;
- (s) if any Cost Overrun is not paid within five Business Days of written notice by the Administrative Agent to the Obligors of such Cost Overrun;
- (t) if an event of default occurs under the DBC Mortgage which is not waived by DBC or cured within any cure period afforded therefor or in respect of which DBC is required to stand still pursuant to the terms of the DBC Subordination Agreement;
- (u) if a construction lien is registered against the Project Lands or any portion thereof and such lien is not discharged or otherwise vacated within fifteen (15) Business Days thereafter; or
- (v) if in the opinion of the Required Lenders, acting reasonably, a Material Adverse Change has occurred.

12.02 **Acceleration and Enforcement**

- (1) If any Event of Default occurs:
 - (a) the Lenders will have no further obligation to make Loans or issue Letters of Credit hereunder, and the outstanding principal amount or face amount, as the case may be, of all Loans, Letters of Credit and all other Obligations will, at the option of the Administrative Agent or upon the request of the Required Lenders, become immediately due and payable with interest thereon, at the rate or rates determined as herein provided, to the date of actual payment thereof, all without notice, presentment, protest, demand, notice of dishonour or any other demand or notice whatsoever, all of which are hereby expressly waived by the Borrower; provided, if any Event of Default described in Section 12.01(i) or (j) with respect to any Obligor

occurs, the Commitments (if not theretofore terminated) will automatically terminate and the outstanding principal amount or face amount, as the case may be, of all Loans, Letters of Credit and all other Obligations will automatically be and become immediately due and payable; and

- (b) the Lenders, or the Administrative Agent on their behalf, may, in their discretion, exercise any right or recourse and proceed by any action, suit, remedy or proceeding against any Obligor authorized or permitted by law for the recovery of all the Obligations to the Lenders and, whether or not the Lenders or the Administrative Agent have exercised any of their respective rights under the foregoing clause (a), proceed to exercise any and all rights hereunder and, subject to Section 12.02(3), under the Security.

(2) The Administrative Agent and Lenders are not under any obligation to the Obligors or any other Person to realize upon any collateral or enforce the Security or any part thereof or to allow any of the collateral to be dealt with or Disposed of. Neither the Administrative Agent nor the Lenders are responsible or liable to the Obligors or any other Person for any loss or damage arising from such realization or enforcement or the failure to do so or for any act or omission on their respective parts or on the part of any director, officer, employee, agent or adviser of any of them in connection with any of the foregoing.

(3) Each of the Lenders acknowledges that the Administrative Agent holds the Security to secure all of the Obligations and, upon the occurrence of an Event of Default, the Administrative Agent will act on the written instructions of the Required Lenders as provided in this Agreement and will distribute the net sale proceeds of realization of the Security to the Lenders in accordance with their Applicable Percentage of the Obligations and in accordance with Section 12.07.

12.03 Payment of Bankers' Acceptances and Letters of Credit

If the Borrower do not pay to the Administrative Agent for the account of the Lenders the face amount of any unmatured Bankers' Acceptance or the face amount of any unexpired Letter of Credit required to be paid pursuant to Section 12.03, the Administrative Agent on behalf of the Lenders may at its option at any time without notice to the Borrower give notice to the Lenders to make a Prime Rate Loan to the Borrower equal to the face amount of all unmatured Bankers' Acceptances and the face amount of all unexpired Letters of Credit, such Prime Rate Loan not to bear interest until the maturity date of the particular Bankers' Acceptance or Letter of Credit. The proceeds of such Loan will be held by each Lender in a non-interest bearing cash collateral account for the benefit of the Borrower and will be applied in payment of such Bankers' Acceptances as they mature and such Letters of Credit if payment is required thereunder or otherwise as the Lender may require. The Borrower will execute and deliver as security for such Loan all such security as the Lender may deem necessary or advisable including an assignment of the credit balance in respect of such cash collateral account.

12.04 Remedies Cumulative

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

Loan Document will not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which any one or more of the Lenders and the Administrative Agent may be lawfully entitled in connection with such default or breach.

12.05 **Perform Obligations**

If an Event of Default has occurred and is continuing and if any Obligor has failed to perform any of its covenants or agreements in the Loan Documents, the Required Lenders, may, but will be under no obligation to, instruct the Administrative Agent on behalf of the Lenders to perform any such covenants or agreements in any manner deemed fit by the Required Lenders without thereby waiving any rights to enforce the Loan Documents. The reasonable expenses (including any legal costs) paid by the Administrative Agent and the Lenders in respect of the foregoing will be an Obligation and will be secured by the Security. Without limiting the generality of the foregoing, in the event that a construction lien is registered against the Project Lands or any portion thereof and is not discharged within fifteen (15) Business Days thereafter, the Administrative Agent (on behalf of the Lenders) shall be entitled, in its sole discretion, on behalf of the Borrower or otherwise, to pay into court the amount required to effect removal of such lien and the amount so paid shall be deemed to have been advanced by the Lenders to the Borrower and shall, together with all interest accruing thereon, be deemed to form a part of the indebtedness and liability of the Borrower to the Lenders hereunder.

12.06 **Third Parties**

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

12.07 **Application of Payments**

From and after the occurrence of an Event of Default which is continuing, all payments made by the Obligors hereunder or received from proceeds of realization of any Security will be applied to amounts due under the Obligations, all as determined by the Administrative Agent and based on Applicable Percentage of Obligations, and for greater clarity Obligations owing under the LC Facility shall rank *pari passu* with Obligations owing under the Construction Facility.

ARTICLE 13 - THE ADMINISTRATIVE AGENT AND THE LENDERS

13.01 **Payments by the Borrower**

(1) Prior to an Event of Default that is continuing, all payments made by or on behalf of the Borrower pursuant to this Agreement will be made to and received by the Administrative Agent on behalf of the Lenders and will be distributed by the Administrative Agent to the Lenders as soon as possible upon receipt by the Administrative Agent. Subject to Sections 6.01, 6.02, 7.02 and 13.02, the Administrative Agent will distribute to the Lenders in accordance with each Lender's Applicable Percentage:

- (a) costs and expenses;
- (b) payments of interest, Letter of Credit fees and commitment fees;
- (c) repayments of principal;
- (d) prepayments of principal;
- (e) amounts received by the exercise of any right of set-off, consolidation of accounts, or by counterclaim or cross-action; and
- (f) all other payments received by the Administrative Agent.

(2) Notwithstanding the foregoing, any such distribution that would otherwise be made pursuant to Section 13.01(1)(c) or (d) on account of any outstanding Bankers' Acceptances or Letters of Credit will be set aside in a separate collateral account for the primary benefit of the Lenders who have issued such Bankers' Acceptances or Letters of Credit (and for the secondary benefit of the Lenders in respect of other Obligations) until and to the extent that such Obligations become matured and not contingent, at which time such distributions will be made to the Lenders for whose primary benefit such amounts are held, at which time such application will be made in accordance with Section 13.01(1)(c) or (d).

(3) Subject to Section 13.02, if the Administrative Agent does not distribute a Lender's Applicable Percentage of a payment made by the Borrower to or for the benefit of a Lender for value on the day that payment is made to the Administrative Agent, provided that such payment is received by the Administrative Agent no later than 1:00 p.m. (Toronto time) on such day, the Administrative Agent will pay to such Lender on demand an amount equal to the product of (a) the Interbank Reference Rate *per annum* and (b) the amount received by the Administrative Agent from the Borrower and not so distributed to such Lender, with the result thereof multiplied by (c) a fraction, the numerator of which is the number of days that have elapsed from and including the date of receipt of the payment by the Administrative Agent to but excluding the date on which the payment is made by the Administrative Agent to such Lender, and the denominator of which is 365 or 366, as the case may be.

13.02 Payments by Administrative Agent

(1) For greater certainty, the following provisions will apply to all payments made by the Administrative Agent to the Lenders hereunder:

- (a) the Administrative Agent will be under no obligation to make any payment (whether in respect of principal, interest, fees or otherwise) to any Lender until an amount in respect of such payment has been received by the Administrative Agent from the Borrower;
- (b) if the Administrative Agent receives less than the full amount of any payment of principal, interest, fees or other amount owing by the Borrower under this Agreement, then, subject to Section 7.02, the Administrative Agent will have no obligation to remit to each Lender any amount other than such Lender's Applicable Percentage of the amount actually received by the Administrative Agent;

- (c) if any Lender advances more or less than its Applicable Percentage of the Loan, such Lender's entitlement to such payment will be increased or reduced, as the case may be, in proportion to the amount actually advanced by such Lender;
- (d) the Administrative Agent acting reasonably and in good faith will, after consultation with the Lenders in the case of any dispute, determine in all cases the amount of all payments to which each Lender is entitled and such determination will, in the absence of manifest error, be binding and conclusive;
- (e) upon request, the Administrative Agent will deliver a statement detailing any of the payments to the Lenders referred to herein; and
- (f) all payments by the Administrative Agent to a Lender hereunder will be made to such Lender at its address set forth on the signature pages on this Agreement or on the applicable Assignment and Assumption unless notice to the contrary is received by the Administrative Agent from such Lender.

(2) Unless the Administrative Agent has received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of any Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute the amount due to the Lenders. If the payment by the Borrower is in fact not received by the Administrative Agent on the required date and the Administrative Agent has made available corresponding amounts to the Lenders, the Borrower will, without limiting their other obligations under this Agreement, indemnify the Administrative Agent against any and all liabilities, obligations, losses (other than loss of profit), damages, penalties, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on or incurred by the Administrative Agent as a result. A certificate of the Administrative Agent with respect to any amount owing by the Borrower under this Section 13.02(2) will be prima facie evidence of the amount owing in the absence of manifest error.

13.03 **Administrative of the Credits**

- (1) Unless otherwise specified herein, the Administrative Agent will perform the following duties under this Agreement:
- (a) prior to an advance to the Borrower hereunder, ensure that all conditions precedent have been fulfilled in accordance with the terms of this Agreement;
 - (b) take delivery of each Lender's Applicable Percentage of a Loan and make all Loans hereunder in accordance with the provisions set forth herein;
 - (c) use reasonable efforts to collect promptly all sums due and payable by the Obligors pursuant to this Agreement;
 - (d) make all payments to the Lenders in accordance with the provisions hereof;
 - (e) hold all legal documents relating to the Credit Facilities, maintain complete and accurate records showing all Loans made by, and all Letters of Credit issued on behalf of, the Lenders, all remittances and payments made by the Obligors to the Administrative Agent, all remittances and payments made by the Administrative

Agent to the Lenders and all fees or any other sums received by the Administrative Agent and allow each Lender and their respective advisors to examine such accounts, records and documents at their own expense, and provide any Lender, upon reasonable notice, with such copies thereof as such Lender may reasonably require from time to time at its expense;

- (f) except as otherwise specifically provided for in this Agreement, promptly advise each Lender upon receipt of each notice and deliver to each Lender, promptly upon receipt, all other written communications furnished by the Obligors to the Administrative Agent pursuant to this Agreement, including copies of financial reports and certificates which are to be furnished to the Administrative Agent;
- (g) forward to each of the Lenders, one copy each of this Agreement and other Loan Documents;
- (h) promptly forward to each Lender, upon request, an up-to-date loan status report and any other information respecting the Obligors reasonably requested by such Lender; and
- (i) upon learning of same, promptly advise each Lender in writing of the occurrence of a Default or the occurrence of any event, condition or circumstance which would result in a Material Adverse Change to any Obligor or of any material adverse information relative to any Obligor or of the occurrence of any change which would result in a Material Adverse Change.

(2) The Administrative Agent may take the following actions only with the prior consent of the Required Lenders, unless otherwise specified in this Agreement:

- (a) subject to Section 13.03(3), exercise any and all rights of approval conferred upon the Lenders by this Agreement;
- (b) amend, modify or waive any of the terms of this Agreement (including waiver of a Default or an Event of Default) if such amendment, modification or waiver would not have a material adverse effect on the rights of the Lenders thereunder and if such action is not otherwise provided for in Section 13.03(3);
- (c) engage professionals, experts and agents as permitted by Section 13.04(1); and
- (d) declare an Event of Default, take action to enforce performance of the Obligations and realize on collateral subject to the Security and pursue any other legal remedy necessary or advisable to protect the interests of the Lenders hereunder.

(3) The Administrative Agent may take the following actions only with the prior unanimous consent of the Lenders, unless otherwise specified herein:

- (a) amend, modify, discharge, terminate or waive any of the terms of this Agreement if such amendment, modification, discharge, termination or waiver would increase the amount of the Credit Facilities, reduce the interest rate applicable to either of the Credit Facilities, reduce the fees payable with respect to the Credit Facilities, extend any date fixed for payment of principal or interest relating to the Credit Facilities;

- (b) amend, modify, discharge, terminate or waive any terms of the Security otherwise than pursuant to the terms hereof or thereof;
 - (c) amend this Section 13.03(3);
 - (d) amend any provision of Article 6;
 - (e) amend Section 9.01(1) or 9.03(1) or 9.03(3);
 - (f) amend Section 12.07 or Section 13.01;
 - (g) amend any provision of Schedule A;
 - (h) amend the definition of "Required Lenders";
 - (i) where the Independent Cost Consultant identifies a Cost Overrun which the Administrative Agent proposes to finance other than by way of additional equity from the Obligors;
 - (j) amend the definition of "Minimum Project Equity"; or
 - (k) amend the definition of "Qualified Presale".
- (4) As between the Obligors, on the one hand, and the Administrative Agent and the Lenders, on the other hand:
- (a) all statements, certificates, consents and other documents which the Administrative Agent purports to deliver on behalf of the Lenders or the Required Lenders will be binding on each of the Lenders, and the Obligors will not be required to ascertain or confirm the authority of the Administrative Agent in delivering such documents;
 - (b) all certificates, statements, notices and other documents which are delivered by the Obligors to the Administrative Agent in accordance with this Agreement will be deemed to have been delivered to each of the Lenders; and
 - (c) all payments which are made by the Obligors to the Administrative Agent in accordance with this Agreement will be deemed to have been duly made to each of the Lenders.

13.04 **Rights of Administrative Agent**

(1) In administering the Credit Facilities, the Administrative Agent may retain, at the expense of the Lenders if such expenses are not recoverable from the Obligors, such counsel, auditors and other experts as the Administrative Agent may select, in its sole discretion, acting reasonably, and is entitled to rely upon the advice of such counsel, auditors and other experts in the performance of its duties hereunder.

(2) Except in its own right as a Lender, the Administrative Agent will not be required to advance its own funds for any purpose hereunder.

(3) The Administrative Agent may round the amount of a Bankers' Acceptance or BA Equivalent Advance that a Lender is obliged to advance hereunder to the nearest \$1,000 or as customarily required from time to time under the bankers' acceptance money market.

13.05 **Representations, Acknowledgements and Covenants of Lenders**

(1) Each Lender represents and warrants to the Borrower and the Administrative Agent that it has the legal capacity, power and authority to enter into this Agreement and has not contravened its constating documents or any Applicable Law by so doing.

(2) Each of the Lenders acknowledges that in the event that the Administrative Agent does not receive payment in accordance with this Agreement, it will not be the obligation of the Administrative Agent to maintain the Credit Facilities in good standing nor will any Lender have recourse to the Administrative Agent in respect of any amounts owing to such Lender under this Agreement.

(3) Each Lender acknowledges that its obligation to advance its Applicable Percentage of Loans and to participate in any Letter of Credit in accordance with the terms of this Agreement is independent and in no way related to the obligation of any other Lender hereunder.

(4) Each Lender agrees that it will notify the Administrative Agent of any Default or Event of Default of which it becomes aware.

(5) Each Lender hereby acknowledges receipt of a copy of this Agreement and the Loan Documents and acknowledges that it is satisfied with the form and content of such documents.

(6) Each Lender will respond promptly to each request by the Administrative Agent for the consent of such Lender required hereunder.

13.06 **Provisions Operative Between Lenders and Administrative Agent Only**

Except for the provisions of Sections 13.03(2), (3) and (4), Sections 13.05(1), (3) and (6), item (3) of 13.08 and the first sentence of Section 13.01(1), the provisions of this Article 13 relating to the rights and obligations of the Lenders and the Administrative Agent inter se will be operative as between the Lenders and the Administrative Agent only, and the Obligors will not have any rights or obligations under or be entitled to rely for any purpose upon such provisions.

13.07 **Maintenance of Security**

(1) The Security shall be granted in favour of and held by the Administrative Agent for and on behalf of the Lenders in accordance with the provisions of this Agreement. The Administrative Agent shall, in accordance with its usual practices in effect from time to time, take all steps required to perfect and maintain the Security, including: filing renewals and change notices in respect of such Security; and ensuring that the name of the Administrative Agent is noted on all property insurance policies covering the Project to the extent required herein. If the Administrative Agent becomes aware of any matter concerning the Security which it considers to be material, it shall promptly inform the Lenders. The Administrative Agent shall comply with all instructions provided by the Lenders in connection with the enforcement or release of the Security which it holds. The Administrative Agent agrees to permit each Lender to review and make photocopies of the original documents comprising the Security from time to time upon reasonable notice.

(2) If the Borrower have provided security in favour of any Lender directly, except for Purchase-Money Security Interests (as that term is defined in the *Personal Property Security Act* (Ontario)), such Lender agrees to pay to the Agent all amounts received by it in connection with the enforcement of such security, and all such amounts shall be deemed to constitute "Proceeds of Realization" and shall be dealt with as provided in Section 13.08.

13.08 **Application of Proceeds of Realization**

Notwithstanding any other provision of this Agreement, Proceeds of Realization or any portion thereof shall be distributed in the following order: (1) firstly, in payment of all costs and expenses incurred by the Administrative Agent and the Lenders in connection with such realization, including legal, accounting and receivers' fees and disbursements; (2) secondly, against the outstanding Obligations, each Lender being entitled to receive its pro rata share thereof; and (3) thirdly, if all Obligations have been paid and satisfied in full, then, subject to Applicable Law, any surplus Proceeds of Realization shall be paid to the Borrower.

13.09 **No Partnership**

The obligations of each Lender under this Agreement are several. The failure of any Lender to carry out its obligations hereunder shall not relieve the other Lenders of any of their respective obligations hereunder. No Lender shall be responsible for the obligations, acts or omissions of any other Lender hereunder. Neither the entering into of this Agreement nor the completion of any transactions contemplated herein shall constitute the Lenders a partnership. Each Lender may lend money to and have business dealings with the Borrower and their Affiliates outside the scope of this Agreement, provided that any such security held by such Lender in respect of the assets of the Borrower shall be held by such Lender in trust for the Administrative Agent and any proceeds from the realization of such security shall constitute Proceeds of Realization as provided herein.

13.10 **Sharing of Information**

The Administrative Agent and the Lenders may share among themselves any information they may have from time to time concerning the Obligors whether or not such information is confidential; but shall have no obligation to do so (except for any obligations of the Administrative Agent to provide information to the extent required in this Agreement).

ARTICLE 14 – GENERAL

14.01 **Addresses, Etc. for Notices**

The mailing addresses and addresses for electronic communications for the purposes of notices and other communications to the Obligors, the Lenders and the Administrative Agent are set out on the signature pages of this Agreement.

14.02 **Governing Law and Submission to Jurisdiction**

Ontario is the Province for the purposes of Sections 11(a) and (b) of Schedule A.

14.03 **Effect of Assignment**

For greater certainty, an assignment by any Lender of its rights hereunder will not constitute a repayment, discharge, rescission, extinguishment or novation of any extension of credit by such Lender under this Agreement or interest therein, and the obligations so assigned will continue to be the same obligations and not new obligations.

14.04 **Specific Environmental Indemnification**

(1) The Obligors shall indemnify the Administrative Agent and each Lender and hold the Administrative Agent and each Lender harmless at all times from and against any and all losses, damages and costs (including reasonable counsel fees and out-of-pocket expenses) resulting from any legal action commenced or claim made by a third party against the Administrative Agent or any Lender related to or as a result of actions or omissions on the part of any Obligor related to or as a consequence of environmental matters or any requirements of Environmental Laws concerning the Project. The Obligors shall have the sole right, at their expense, to control any such legal action or claim and to settle on terms and conditions approved by the Obligors and approved by the party named in such legal action or claim, acting reasonably, provided that if, in the opinion of the Administrative Agent or the Lenders, as the case may be, the interests of the Administrative Agent or the Lenders are different from those of the Obligors in connection with such legal action or claim, the Administrative Agent and the Lenders shall have the sole right, at the Obligors' expense, to defend their own interests provided that any settlement of such legal action or claim shall be on terms and conditions approved by the Obligors, acting reasonably. If the Administrative Agent or the Lenders elect to defend such legal action or claim, they shall promptly notify the Obligors of same and shall make reasonable efforts to consult with the Obligors on an ongoing basis in connection with such matter. If the Obligors do not defend the legal action or claim, the Administrative Agent and the Lenders shall have the right to do so on their own behalf and on behalf of the Obligors at the expense of the Obligors.

14.05 **Survival**

The provisions of Section 9 of Schedule A will survive the repayment of all Loans and all obligations with respect to Letters of Credit, whether on account of principal, interest or fees, and the termination of this Agreement, unless a specific release of such provisions by the Administrative Agent, on behalf of the Lenders, is delivered to the Obligors.

14.06 **Severability**

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any of the parties.

14.07 **Further Assurances**

Each Obligor, each Lender and the Administrative Agent will promptly cure any default by it in the execution and delivery of this Agreement, the Loan Documents or of any of the agreements provided for hereunder to which it is a party. Each Obligor, at its expense, will promptly execute and deliver to the Administrative Agent, upon request by the Administrative Agent, all such other and further documents, agreements, opinions, certificates and instruments in compliance with,

or for the accomplishment of the covenants and agreements of such Obligor hereunder or more fully to state the obligations of such Obligor as set forth herein or to make any recording, file any notice or obtain any consent, all as may be reasonably necessary or appropriate in connection therewith.

14.08 **Amendments and Waivers**

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

14.09 **Reasonableness**

Until the occurrence of an Event of Default, unless specifically specified otherwise herein, in respect of the exercise of any discretion or the giving of any consents or approval under this Agreement, the Administrative Agent and the Lenders shall act in a reasonable and timely manner consistent with prudent lending practices bearing in mind the scope, magnitude and complexity of the Project and the financial and development expertise of the Borrower.

14.10 **Time of the Essence**

Time is of the essence of this Agreement.

[Signature pages follow]

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

OBLIGORS:

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.
as Borrower

120 Lynn Williams Street
Suite #2A
Toronto, Ontario
M6K 3P6
Attention: Alan Saskin
Facsimile No.: (416) 928-9501

By:



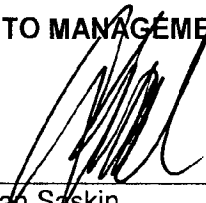
Name: Alan Saskin
Title: Authorized Signatory

I have authority to bind the above.

URBANCORP TORONTO MANAGEMENT INC.
as a Guarantor

120 Lynn Williams Street
Suite #2A
Toronto, Ontario
M6K 3P6
Attention: Alan Saskin
Facsimile No.: (416) 928-9501

By:



Name: Alan Saskin
Title: Authorized Signatory

I have authority to bind the above.

ALAN SASKIN
as a Guarantor

C/O Urbancorp
120 Lynn Williams Street
Suite #2A
Toronto, Ontario
M6K 3P6
Facsimile No.: (416) 928-9501




WITNESS

July 13, 2012

Date of witnessed signature


Name:



URBANCORP (RIVERDALE) DEVELOPMENTS INC.
as a Guarantor

120 Lynn Williams Street
Suite #2A
Toronto, Ontario
M6K 3P6
Attention: Alan Saskin
Facsimile No.: (416) 928-9501

By:



Name: Alan Saskin
Title: Authorized Signatory

I have authority to bind the above.

URBANCORP (THE BEACH) DEVELOPMENTS INC.
as a Guarantor

120 Lynn Williams Street
Suite #2A
Toronto, Ontario
M6K 3P6
Attention: Alan Saskin
Facsimile No.: (416) 928-9501

By:



Name: Alan Saskin
Title: Authorized Signatory

I have authority to bind the above.

ADMINISTRATIVE AGENT:

**CANADIAN IMPERIAL BANK OF COMMERCE, as
Administrative Agent**

Canadian Agency Services
40 Dundas St West
5th Floor
Toronto, ON
M5G 2C2

Attention: Manager, Agency Services
Group
Facsimile No.: 416-956-383

By:

Name: **Peter F. Block**
Title: **Authorized Signatory**

Name: **Mark J. Playfair**
Title: **Authorized Signatory**

LENDERS:

**CANADIAN IMPERIAL BANK OF COMMERCE, as a
Lender**

Canadian Imperial Bank of Commerce
Real Estate Division
3700 Steeles Avenue West, Suite 500
Woodbridge, Ontario L4L 8K8

Attention: Peter Block
Facsimile No.: (905) 850-5739

By:

Name: **Peter F. Block**
Title: **Authorized Signatory**

Name: **Mark J. Playfair**
Title: **Authorized Signatory**

CANADIAN WESTERN BANK, as a Lender

3000, 10303 Jasper Avenue
Edmonton AB T5J 3X6
Attention: Mykhaylo Hotsaliuk
Facsimile: 780-969-1582

By:

Name:
Title:

Name:
Title:

LAURENTIAN BANK OF CANADA, as a Lender

8500 Leslie Street
Suite 100
Thornhill ON. L3T 7M8
Attention: Jeff Weller
Facsimile: 905-866-5020 ext. 289

By:

Name:
Title:

Name:
Title:

ADMINISTRATIVE AGENT:

**CANADIAN IMPERIAL BANK OF COMMERCE, as
Administrative Agent**

Canadian Agency Services
40 Dundas St West
5th Floor
Toronto, ON
M5G 2C2

Attention: Manager, Agency Services
Group
Facsimile No.: 416-956-383

By: _____
Name:
Title:

Name:
Title:

LENDERS:

**CANADIAN IMPERIAL BANK OF COMMERCE, as a
Lender**

Canadian Imperial Bank of Commerce
Real Estate Division
3700 Steeles Avenue West, Suite 500
Woodbridge, Ontario L4L 8K8



Attention: Peter Block
Facsimile No.: (905) 850-5739

By: _____
Name:
Title:

Name:
Title:

CANADIAN WESTERN BANK, as a Lender

3000, 10303 Jasper Avenue
Edmonton AB T5J 3X6
Attention: Mykhaylo Hotsaliuk
Facsimile: 780-421-0379

By: 
Name: **MYKHAYLO HOTSALIUK**
Title: **Senior Manager**

Name: **Richard Hallson**
Title: **Senior Assistant Vice President**

LAURENTIAN BANK OF CANADA, as a Lender

8500 Leslie Street
Suite 100
Thornhill ON. L3T 7M8
Attention: Jeff Weller
Facsimile: (905) 886-5851

By: _____
Name:
Title:

Name:
Title:

ADMINISTRATIVE AGENT:

**CANADIAN IMPERIAL BANK OF COMMERCE, as
Administrative Agent**

Canadian Agency Services
40 Dundas St West
5th Floor
Toronto, ON
M5G 2C2

Attention: Manager, Agency Services
Group
Facsimile No.: 416-956-383

By:

Name:
Title:

Name:
Title:

LENDERS:

**CANADIAN IMPERIAL BANK OF COMMERCE, as a
Lender**

Canadian Imperial Bank of Commerce
Real Estate Division
3700 Steeles Avenue West, Suite 500
Woodbridge, Ontario L4L 8K8

Attention: Peter Block
Facsimile No.: (905) 850-5739

By:

Name:
Title:

Name:
Title:

CANADIAN WESTERN BANK, as a Lender

3000, 10303 Jasper Avenue
Edmonton AB T5J 3X6
Attention: Mykhaylo Hotsaliuk
Facsimile: 780-421-0379

By:

Name:
Title:

Name:
Title:

LAURENTIAN BANK OF CANADA, as a Lender

8500 Leslie Street
Suite 100
Thornhill ON. L3T 7M8
Attention: Jeff Weller
Facsimile: (905) 886-5851

By:



Name: **MARIA ACCOMANDO**
Title: **Senior Manager**



Name: **Tony Da Silva**
Title: **Vice President
Real Estate Financing**

Schedule A

Model Credit Agreement Provisions

The attached model credit agreement provisions, which have been revised under the direction of the Canadian Bankers Association Secondary Loan Market Specialist Group from provisions prepared by The Loan Syndications and Trading Association, Inc., form part of this Agreement, except for the footnotes to the model credit agreement provisions and subject to the following variations:

1. The definition of "Default" is amended by deleting the words "that constitutes an Event of Default or".
2. The definition of "Loan" as set out in this Schedule A shall be amended to delete the words "banker's acceptance or LIBO Rate Loan, except for any Letter of Credit or participation in a Letter of Credit" and substitute the following therefor "Prime Rate Loan, Letter of Credit, Bankers' Acceptance or BA Equivalent Advance outstanding under the Credit Facilities".
3. Any reference to a "Permitted Lien" shall mean a Permitted Encumbrance.
4. Section 7.3(1)(c) of this Schedule A is amended to replace "person" with "Person".
5. Section 10(b)(v) of this Schedule A shall be deleted in its entirety and the following substituted therefor:

"(v) any assignment of an interest in excess of \$5,000,000 must be approved by the Borrower (such approval not to be unreasonably withheld or delayed) unless: (A) the proposed assignee is itself already a Lender; (B) the proposed assignee is an Affiliate of any of the Lenders or an Approved Fund; or (C) an Event of Default has occurred and is continuing; and"
6. For the purposes of Section 10(b)(vi) of this Schedule A, the processing and recordation fee referred to therein shall be \$3,000.
7. For the purposes of Sections 11(a) and 11(b) of this Schedule A, the specified Province shall be the Province of Ontario.
8. Words used in this Schedule A and not defined in this Schedule A shall have the meaning given to such terms in Section 1.01 of this Agreement to the extent therein defined.
9. If there is any inconsistency or conflict between the terms of this Schedule A and the terms of the main body of this Agreement, the terms of the main body of this Agreement shall prevail.

Schedule B

Lenders and Commitments

Lender and Lending Office	Leslieville Construction Facility	Riverdale Construction Facility	Beach Construction Facility	LC Facility *	Capital Loan Facility	Total Commitment
Canadian Imperial Bank of Commerce Real Estate Division 3700 Steeles Avenue West, Suite 500 Woodbridge, Ontario L4L 8K8 Attention: Peter Block Facsimile: 905-850-5739	Cdn. \$10,685,017 (50.58%)	Cdn. \$9,387,881 (50.58%)	Cdn. \$9,087,908 (50.58%)	Cdn. \$3,000,000 (100%)	Cdn. \$1,264,500 (50.58%)	Cdn. \$33,425,306 (52.88%)
Canadian Western Bank 3000, 10303 Jasper Avenue Edmonton AB T5J 3X6 Attention: Mykhaylo Hotsaliuk Facsimile: 780-421-0379	Cdn. \$5,169,284 (24.47%)	Cdn. \$4,541,744 (24.47%)	Cdn. \$4,396,622 (24.47%)	Cdn. \$0 (0%)	Cdn. \$611,750 (24.47%)	Cdn. \$14,719,400 (23.33%)
Laurentian Bank of Canada 8500 Leslie Street Suite 100 Thornhill On. L3T 7M8 Attention: Jeff Weller Facsimile: (905) 886-5851	Cdn. \$5,270,684 (24.95%)	Cdn. \$4,630,835 (24.95%)	Cdn. \$4,482,865 (24.95%)	Cdn. \$0 (0%)	Cdn. \$623,750 (24.95%)	Cdn. \$15,008,134 (23.79%)
Total	Cdn. \$21,124,985	Cdn. \$18,560,460	Cdn. \$17,967,395	Cdn. \$3,000,000	Cdn. \$2,500,000	Cdn. \$63,152,840

LC Lender/Issuing Bank: Canadian Imperial Bank of Commerce

Swingline Lender: Canadian Imperial Bank of Commerce

*** The LC Facility is made available at the sole discretion of the LC Lender and the LC Lender may cancel or restrict availability of the unutilized portion of the LC Facility at any time and from time to time without notice or demand.**

Schedule C**Legal Description of Project****55 Howie, Toronto****PIN 21074-0015 (LT)**

Parcel-13-1, Section A153; Lots 13 and 14 w/s Bolton Avenue, Plan 153, Toronto, City of Toronto

PIN 21074-0394 (LT)

Part Lots 7 and 8, Plan 117E, Toronto; Lots 10-12, Plan 153 Toronto; Part Lot 45, All Lots 46-53 inclusive, Plan 731 City East, Part Lot 14, Concession 1 FTB Township of York, designated as Parts 1, 4 and 9, Plan 66R-25222, City of Toronto

PIN 21074-0395 (LT)

Lot 7, Plan 117E Toronto, Lots 10-12, Plan 153 Toronto, Part Lots 45, all Lots 46-53 inclusive, Plan 731 City East, Part Lot 14, Concession 1 FTB Township of York as in ER100301; Part Lots 8, Plan 117E Toronto as in ER136102 except Parts 1, 4, and 9, Plan 66R-25222, City of Toronto

PIN 21074-0396 (LT)

Part Lot 8, Plan 117E Toronto, designated as Part 2, Plan 66R-25222, City of Toronto

PIN 21074-0398 (LT)

Part Lot 9, Plan 153 Toronto, designated as Part 3, Plan 66R-25222, City of Toronto

PIN 21074-0399 (LT)

Part Lot 9, Plan 153 as in ER137697 except Part 3, Plan 66R-25222, City of Toronto

PIN 21074-0400 (LT)

Part Lots 15-17, Plan 153 Toronto, designated as Parts 5 and 6, Plan 66R-25222, City of Toronto

PIN 21074-0401 (LT)

Part Lots 15-16, Plan 153, Toronto, designated as Parts 7 and 8, Plan 66R-25222, City of Toronto

PIN 21074-0402 (LT)

Part Lot 17, Plan 153 Toronto, designated as Part 10, Plan 66R-25222, City of Toronto

42 Edgewood

PIN 21024-0422 (LT)

Lots 5, 6, 7, 8 and 9, Plan 504 (Midway); Lots 66, 67, 68 and 69, Plan 481E, designated as Parts 1 and 2, Plan 66R-25512; s/t an easement over Part Lot 69, Plan 481E, designated as Part 2, Plan 66R-25512 in favour of Part Lot 70, Plan 481E as in ET127629; t/w an easement over Part Lot 70, Plan 481E, designated as Parts 3, Plan 66R-25512 as in ET127629; City of Toronto

50 Curzon

PIN 21051-0408 (LT)

Firstly: Part Lot 11, Plan 61E Toronto; Part Lot 11, Concession 1 FTB, designated as Part 2, Plan 66R-25636; Secondly: Part Lot 11, Concession 1 FTB designated as Part 1, Plan 66R-25636; Thirdly: Part Lot 11, Concession 1 FTB commencing at an iron bar in the western limit of Curzon Street, distant 595.81 feet measured northerly therealong from the northern limit of Queen Street East; Thence north 16 degrees 00 minutes west along the said western limit of Curzon Street a distance of 65.70 feet to an iron bar; thence south 74 degrees 22 minutes 20 seconds west a distance of 252.43 feet to an iron pipe in the eastern limit of Lot 8, according to a Plan filed in the said Registry Office as number 61E; thence south 17 degrees 06 minutes east along the eastern limits of Lots 8 and 9 according to said Plan 61E a distance of 66.00 feet to a spike in a stump; Thence north 74 degrees 18 minutes 20 seconds east a distance of 251.17 feet to the point of commencement; subject to an easement as in AT2953528, City of Toronto

Schedule 1.01(A)

Compliance Certificate

TO: CANADIAN IMPERIAL BANK OF COMMERCE, as Administrative Agent

FROM: URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. (the "**Borrower**")

DATE: ●

This Compliance Certificate is delivered to you, as Administrative Agent, pursuant to Section 9.02(2) of the credit agreement made as of July 13, 2012 between, *inter alia*, the Borrower, as borrower, you, as administrative agent, and the financial institutions from time to time parties thereto as lenders, as amended to the date hereof (the "**Credit Agreement**"). All terms used in this Compliance Certificate that are defined in the Credit Agreement have the same meanings herein.

I, [name], the [title] of the Borrower, certify for and on behalf of the Borrower and not in my personal capacity and without personal liability, that:

1. Representations and Warranties All of the representations and warranties of the Obligors contained in Section 8.01 of the Credit Agreement are true and correct on and as of the date hereof as though made on and as of the date hereof, subject to changes thereto:

- (a) given to the Administrative Agent by the Obligors and accepted in writing by the Administrative Agent, and
- (b) expressly contemplated by the terms of the Credit Agreement and disclosed to the Administrative Agent in writing.

2. Terms, Covenants and Conditions All of the terms, covenants and conditions of the Credit Agreement and each of the other Loan Documents to be performed or complied with by the Obligors at or prior to the date hereof have been performed or complied with.

3. Default No Default or Event of Default has occurred and is continuing on the date hereof.

4. Financial Statements Attached hereto are the financial statements of the Borrower dated ● on the above Conversion(s).

**URBANCORP (LESLIEVILLE)
DEVELOPMENTS INC.**

By: _____
Name:
Title:

Schedule 1.01(B)

Consultant Contracts

See report of Independent Cost Consultant

Schedule 1.01(C)

Conversion Notice

TO: CANADIAN IMPERIAL BANK OF COMMERCE, as Administrative Agent
 FROM: URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. (the "Borrower")
 DATE: ●

1. This Conversion Notice is delivered to you, as Administrative Agent, pursuant to Section 2.05 of the credit agreement made as of July 13, 2012 between, *inter alia*, the Borrower, as borrower, you, as administrative agent, and the financial institutions from time to time parties thereto as lenders, as amended to the date hereof (the "Credit Agreement"). All terms used in this Conversion Notice that are defined in the Credit Agreement have the same meanings herein.

2. The Borrower hereby requests a Conversion as of _____ (the "Conversion Date") as follows:

(a) Type and amount of each Loan to be converted on the Conversion Date:

(i) Prime Rate Loan: Amount
 Cdn. _____
 \$ _____

(ii) Bankers' Acceptances (BA Equivalent Advances):

	<u>Amount</u>	<u>Maturity Date</u>	<u>Conversion Amount</u>
Cdn.			Cdn.
\$	_____	_____	\$
	_____	_____	
	_____	_____	

(b) Type and amount of each Loan resulting from Conversion on the Conversion Date:

	<u>Amount</u>
(i) Prime Rate Loan:	Cdn. _____
	\$ _____

(ii) Bankers' Acceptances (BA Equivalent Advances):

	<u>Amount</u>	<u>Term in Months</u>
Cdn.	_____	_____
\$	_____	_____
	_____	_____

3. No Default has occurred and is continuing or will have occurred and be continuing on the date of the above Conversion(s), or will result from the above Conversion(s).

**URBANCORP (LESLIEVILLE)
DEVELOPMENTS INC.**

By: _____
Name:
Title:

Schedule 1.01(D)

Drawdown Notice

TO: CANADIAN IMPERIAL BANK OF COMMERCE, as Administrative Agent
 FROM: URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. (the "**Borrower**")
 DATE: ●

1. This Drawdown Notice is delivered to you, as Administrative Agent, pursuant to Section 2.05 of the credit agreement made as of July 13, 2012 between, inter alia, the Borrower, as borrower, you, as administrative agent, and the financial institutions from time to time parties thereto as lenders, as amended to the date hereof (the "**Credit Agreement**"). All terms used in this Drawdown Notice that are defined in the Credit Agreement have the same meanings herein.

2. The Borrower hereby requests the following Loan(s) and/or Letter(s) of Credit:

(a) Drawdown Date: _____

(b) Type of Credit Facility:

Construction Facility

or

LC Facility

(c) Project Phase (if Construction Facility Drawdown)

Leslieville

or

Riverdale

Beach

(d) Amount of each Loan or Letter of Credit (check appropriate boxes)

Amount

() Prime Rate Loan: Cdn. \$ _____

() Letter of Credit:

Amount

Expiry Date

Cdn. \$: _____

Total Cdn. \$ _____

3. Representations and Warranties All of the representations and warranties of the Obligors contained in Section 8.01 of the Credit Agreement are true and correct on and as of the date hereof as though made on and as of the date hereof, subject to changes thereto:

- (a) given to the Administrative Agent by the Borrower and accepted in writing by the Administrative Agent; and
- (b) expressly contemplated by the terms of the Credit Agreement and disclosed to the Administrative Agent in writing.

4. All of the conditions precedent to the Loan(s) and Letter(s) of Credit requested hereby that have not been properly waived in writing by or on behalf of the Lenders have been satisfied.

5. No Default or Event of Default has occurred and is continuing or will have occurred and be continuing on the Drawdown Date, or will result from the Loan(s) and Letter(s) of Credit requested hereby.

**URBANCORP (LESLIEVILLE)
DEVELOPMENTS INC.**

By: _____
Name:
Title:

Schedule 1.01(E)

Material Licences and Material Project Agreements

See report of Independent Cost Consultant

Schedule 1.01(F)

Additional Permitted Encumbrances

NIL

Schedule 1.01(G)

Proforma Sale Prices

See report of Independent Cost Consultant.

Schedule 1.01(H)

Current Project Budgets

See report of Independent Cost Consultant

Schedule 1.01(I)

Relevant Jurisdictions

Obligor	Province of Incorporation/ Continuation/ Formation	Province of Chief Executive Office	Province of Secured Property
Urbancorp (Leslieville) Developments Inc.	Ontario	Ontario	Ontario
Urbancorp Toronto Management Inc.	Ontario	Ontario	Ontario

Schedule 1.01(J)**Repayment Notice**

TO: CANADIAN IMPERIAL BANK OF COMMERCE, as Administrative Agent
 FROM: URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. (the "Borrower")
 DATE: •

1. This Repayment Notice is delivered to you, as Administrative Agent, pursuant to Section 6.02 of the credit agreement made as of July 13, 2012 between, inter alia, the Borrower, as borrower, you, as administrative agent, and the financial institutions from time to time parties thereto as lenders, as amended to the date hereof (the "**Credit Agreement**"). All terms used in this Repayment Notice that are defined in the Credit Agreement have the same meanings herein.

2. The Borrower hereby gives you notice that it intends to repay Cdn. \$• under the [Leslieville OR Riverdale OR Beach] Credit Facilities on • [date which must be at least 5 Business Days after the delivery of this Notice].

3. The amount of such repayment will, subject to the provisions of the Credit Agreement, be used to repay Loans of the following type:

<u>Loan Type</u>	<u>Principal Amount</u>	<u>Project Phase</u>
•	•	[Leslieville OR Riverdale OR Beach]

**URBANCORP (LESLIEVILLE)
DEVELOPMENTS INC.**

By: _____
 Name:
 Title:

Schedule 1.01(K)

Rollover Notice

TO: CANADIAN IMPERIAL BANK OF COMMERCE, as Administrative Agent
 FROM: URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. (the "**Borrower**")
 DATE: ●

1. This Rollover Notice is delivered to you, as Administrative Agent, pursuant to Section 2.05 of the credit agreement made as of July 13, 2012 between, inter alia, the Borrower, as borrower, you, as administrative agent, and the financial institutions from time to time parties thereto as lenders, as amended to the date hereof (the "**Credit Agreement**"). All capitalized terms used in this Rollover Notice that are defined in the Credit Agreement have the same meanings herein.

2. The Borrower hereby request the Rollover of the following Bankers' Acceptances (BA Equivalent Advances):

(a) Rollover Date: _____

(b) Amount of each Loan

<u>Amount</u>	<u>Term in Days</u>	<u>Maturity Date</u>
Cdn. \$ _____	_____	_____
_____	_____	_____
_____	_____	_____

**URBANCORP (LESLIEVILLE)
 DEVELOPMENTS INC.**

By: _____
 Name:
 Title:

Schedule 8.01(14)**Ownership Structure**

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.

Sole Shareholder: Alan Saskin

URBANCORP (RIVERDALE) DEVELOPMENTS INC.

Sole Shareholder: Alan Saskin

URBANCORP (THE BEACH) DEVELOPMENTS INC.

Sole Shareholder: Alan Saskin

URBANCORP TORONTO MANAGEMENT INC.

Sole Shareholder: The A. Saskin Family Trust.

Schedule 9.02(3)(a)

Project Status Certificate

TO: Canadian Imperial Bank of Commerce, as Administrative Agent (the "Administrative Agent")	BORROWER: Urbancorp (Leslieville) Developments Inc. (the "Borrower")
PROJECT PHASE: [Leslieville OR Riverdale OR Beach or the overall Project (for LC draws)] (the "Project")	COMPLETION DATE: [Date] ("Completion Date")

I, _____, the [insert title] of the Borrower, hereby certify as of _____ [insert date]:

1. I am familiar with and have examined the provisions of the credit agreement (the "Credit Agreement") dated as of July 13, 2012, between, *inter alia*, the Borrower, the Administrative Agent and the lenders named therein and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower. Terms defined in the Credit Agreement have the same meanings when used in this certificate.
2. The representations and warranties contained in the Credit Agreement are true and accurate in all material respects as of the date hereof.
3. No event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, an Event of Default.
4. The Project has not been damaged by fire or other casualty and no part of the Project Lands has been expropriated and no proceedings therefor are pending.
5. Construction of the Project is progressing satisfactorily so as to ensure its timely completion in accordance with the Construction Schedule, as amended from time to time in accordance with the terms of the Credit Agreement.
6. The estimated date for Construction Completion is [insert date] and the estimated Cost to Complete is [insert amount].
7. The requirements of any applicable real property lien legislation, including, where applicable, the administration of any holdback accounts, are being met and nothing has occurred subsequent to the date of the Credit Agreement which has resulted or may result in the creation of any Encumbrance upon the Project Lands or any part thereof or which has or may substantially and adversely impair the ability of the Borrower to make all payments of principal and interest under the Credit Agreement or which has or may substantially and adversely impair the financial standing of any guarantor(s) of the obligations of the Borrower under the Credit Agreement or any Security given in connection therewith.
8. Based on an agreed upon land value of ●, the Borrower has invested in the Project Lands and Project, as at the date hereof, \$[insert amount] of its own capital.
9. Any and all funds received from the Lenders previously as advances under the Credit Agreement have been expended or are being held in trust solely for the purpose for which they were advanced; no item of construction costs previously certified to the Administrative

Agent with a request for advance remains unpaid as of the date hereof; further, there are no trade or supplier disputes.

10. The summary of Project Costs attached hereto as Schedule A is true and accurate in all material respects.

11. All of the statements contained in this certificate are true, complete and accurate in all material respects as of the date hereof.

Dated this _____ day of _____, 20_.

Per: _____

Name: _____

Title: _____

Schedule 9.02(3)(e)

Project Consultant's Certificate

TO: Canadian Imperial Bank of Commerce, as Administrative Agent (the " Administrative Agent ")	BORROWER: Urbancorp (Leslieville) Developments Inc. (" Borrower ")
ADVANCE NO:	PROJECT PHASE: Leslieville OR Riverdale OR Beach or the overall Project (for LC draws) (" Project ")
CERTIFICATE DATE: [Date]	COMPLETION DATE: [Date] (" Completion Date ")

Based on my/our professional experience and qualifications and after making such reasonable enquiries as I/we have deemed necessary in the circumstances, I/we hereby certify to the Administrative Agent as follows:

1. I/we have periodically inspected construction since the commencement of construction and last inspected the Project on [insert date] (the "**Inspection Date**").
2. All required permits, licenses and other authorizations have been obtained and are being maintained.
3. Construction and development of the Project up to and including the Inspection Date has been performed in a good and workmanlike manner (subject to the qualification in Note 1).
4. Construction and development of the Project up to and including the Inspection Date has been performed substantially in accordance with (i) the plans and specifications, (ii) all applicable building codes, municipal bylaws and regulations, (iii) all required permits, licenses and other authorizations and (iv) all applicable laws, rules and regulations including, without limitation, environmental laws (subject to the qualification in Note 1).
5. In my/our opinion, as of the date hereof, the figures set forth below accurately reflect the Project costs or work completed on the Project and the costs of the remaining work required to complete the Project in accordance with the plans and specifications. A report setting out in greater detail those elements comprising the figures set out below is attached hereto and forms part of this Certificate.
 - a. Project costs of work completed to date: \$ _____
 - b. Project costs of remaining work: \$ _____
 - c. Estimated total Project costs (a+b): \$ _____
 - d. Original estimate of total Project costs: \$ _____
 - e. Amount of additional costs, if any (c-d): \$ _____
6. In my/our opinion, as of the date hereof, the remaining contingency reserve of \$[insert amount] contained in 5b above is adequate given the current state of work in place and contracts entered into to complete the Project.
7. In my/our opinion, as of the date hereof, the estimated date of completion of the Project is

[insert date]. Reasons for delay, if applicable, are outlined in the attached schedule.

This certificate is given in connection with the above-referenced advance under your construction letter agreement with the Borrower indicated above and you may rely upon it in making such advance.

Dated at [City], [Province], this [] day of [], 20[].

[Consultant's Name]

per: _____

Note 1:

It should be noted that cost consultants are not qualified to confirm that construction work has been completed in accordance with plans and specifications. In this regard, we will forward certificates provided by the design consultants as available to confirm that the project is being constructed in accordance with the approved plans and specifications, and the provincial building code. The experience, expressed herein with the respect to environmental issues, is limited to the anticipated impact on budget and schedule based on the experts reports provided.