

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990,
c. C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

**MOTION RECORD
(RE: SALE OF BEACH LOTS)
Returnable July 17, 2017**

July 6, 2017

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(Riverdale) Developments Inc., and Urbancorp
(The Beach) Developments Inc.

**TO: MASTER SERVICE LIST AND SUPPLEMENTARY SERVICE LIST
(ATTACHED)**

MASTER SERVICE LIST

As of 28 June 2017

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30,
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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43 and SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.

Respondents

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990,
c. C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

MOTION RECORD

I N D E X

Tab	Description	Page
1.	Notice of Motion dated July 6, 2017	1
2.	Fourth Report of the Construction Receiver dated July 6, 2017	8
A.	Confidential Appendix "A": Bid Summary	17
B.	Appendix "B": Agreement of Purchase and Sale dated June 23, 2017 between the Construction Receiver and 2583510 Ontario Inc.	18
3.	Draft Approval and Approval Order re: Beach Lots	69
4.	Draft Ancillary Order to Approval and Vesting Order	82

TAB 1

Court File No. CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990,
c. C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

**NOTICE OF MOTION
(Re: SALE OF BEACH LOTS)
(Returnable July 17th, 2017)**

Alvarez & Marsal Canada Inc. (“**A&M**”) as receiver and manager (in such capacity, the “**Receiver**”), pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended, and as construction lien trustee (in such capacity, the “**Construction Lien Trustee**”), pursuant to section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the “**CLA**”) (the Receiver together with the Construction Lien Trustee, the “**Construction Receiver**”), of all of the assets, undertakings, and property acquired for, or used in relation to the business including all proceeds thereof (the “**Property**”) of Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), Urbancorp (Riverdale) Developments Inc. (“**UC Riverdale**”) and Urbancorp (The Beach) Developments Inc. (“**UC Beach**”, together with UC Riverdale, the “**Guarantors**”, and the Guarantors, together with UC Leslieville, the “**Debtors**”) will make a motion to a Judge of

the Commercial List at 9:00 a.m. on July 17th, 2017, or as soon after that time as the motion can be heard, at 393 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion will be heard orally.

THE MOTION IS FOR:

- (a) an order (the “**Approval and Vesting Order**”) (i) approving the transaction (the “**Transaction**”) with 2583510 Ontario Inc. (the “**Purchaser**”) contemplated by the agreement of purchase and sale dated June 23, 2017, and accepted by the Construction Receiver on June 27, 2017 (the “**APS**”), and (ii) vesting title in and to the Purchased Assets (as described in the APS) in the Purchaser free and clear of all liens, claims and encumbrances other than permitted encumbrances, all in accordance with the draft order substantially in the form attached as **Tab 3** to the Motion Record;
- (b) an order (the “**Ancillary Order**”) (i) sealing the confidential appendix to the Fourth Report of the Construction Receiver dated July 6, 2017 (the “**Fourth Report**”) until further order of the Court, and (ii) approving the Fourth Report and the activities described therein, all in accordance with the draft order substantially in the form attached as **Tab 4** to the Motion Record; and
- (c) such further and other relief as counsel may request and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. On May 31, 2016, the Court issued an order appointing Alvarez & Marsal Canada Inc. as the Construction Receiver of all of the Property of the Debtors (the “**Appointment Order**”).
2. Prior to the appointment of the Construction Receiver, the Debtors had carried on business as land developers principally focused on the development, construction and sale of residential projects located in the Greater Toronto Area.

3. Residential projects under development by the Debtors were typically “pre-sold” by unit and/or home pursuant to agreements of purchase and sale with the individual purchasers prior to commencement of the construction. One of residential projects subject to these Receivership Proceedings is a project located near east Toronto’s Beach neighbourhood (the “**Beach Project**”).

4. The Beach Project consists of thirty-two (32) semi-detached homes and one (1) detached home. All of these homes are freehold (as opposed to condominium units). Of the thirty-three (33) homes, twenty five (25) have been fully constructed and the sale of these homes was completed in 2014 and 2015. The remaining eight (8) lots (the “**Beach Lots**”) are in the very early stages of construction. Of the Beach Lots, six (6) were subject to purchase and sale agreements (each an “**Original Beach APS**”) as at the date of the Appointment Order.

5. Given the very early stage of construction, the mortgagees on the Beach Project, being a lending syndicate consisting of CIBC (as administrative agent), Canadian Western Bank and Laurentian Bank of Canada (collectively, the “**Syndicate**”) and Terra Firma Capital Corporation (“**Terra Firma**”), were not prepared to advance monies to complete the Beach Project. As a result, the Construction Receiver concluded that it is incapable of performing the obligations under each Original Beach APS.

6. Accordingly, pursuant to an Order of The Honourable Mr. Justice Newbould dated May 2, 2017 (the “**Beach Project Order**”), this Court authorized the repudiation of each Original Beach APS and approved a sales and marketing process with respect to the Beach Lots on an “as is where is” basis free and clear of each Original Beach APS (the “**Beach Sale Process**”). The Beach Project Order also sought approval of the engagement of Cushman & Wakefield Ltd., Brokerage (“**CW**”) to implement the Beach Sale Process, subject to the supervision of the Construction Receiver.

7. The Beach Sale Process was launched by CW on May 4, 2017 and is now complete.

8. Over fifty-seven (57) potential bidders executed confidentiality agreements and were provided access to a data room to conduct further due diligence.

9. In accordance with the Beach Sale Process, bidders were required to submit their bid by delivering an executed agreement of purchase and sale (with blackline to a form of agreement of purchase and sale provided by the Construction Receiver) on or before June 20, 2017 at 3:00 pm (Toronto Time) (the “**Bid Deadline**”).
10. At the Bid Deadline, seven (7) bids were submitted to CW.
11. The Construction Receiver has reviewed all bids received and consulted with CW and the principal stakeholders of the Beach Project. The Construction Receiver has determined that the Purchaser’s bid represents the best offer for the estate, as it was the highest bid received and had very minimal changes to the proposed form of purchase agreement provided to bidders.
12. As a result, on June 27, 2017, the Construction Receiver accepted the Purchaser’s bid and entered into the APS, subject to Court approval. The Transaction, if approved, is scheduled to close on July 27, 2017.
13. The Construction Receiver intends to file on a confidential basis with the Court a summary of the other bids received.
14. The Construction Receiver recommends approval of the Transaction for the following reasons:
 - (a) The canvassing of the market by CW for interested purchasers was professionally conducted in accordance with the Beach Sale Process previously approved by this Court;
 - (b) The value of the Transaction represents the highest and best offer received with the least amount of changes to the form of purchase agreement;
 - (c) The Construction Receiver is satisfied that the consideration received for the Purchased Assets (as defined in the APS) is fair and reasonable in the circumstances; and
 - (d) Both Terra Firma and the Syndicate, as mortgagees of the Beach Project, consent to approval of the Transaction.

15. The Construction Receiver also seeks a sealing order with respect to a confidential appendix to the Fourth Report—containing a summary of the other bids received in the Beach Sale Process and the redacted terms of the APS, namely the Purchase Price and the Deposit only—on the basis that certain information contained therein is commercially sensitive and disclosure may negatively affect asset value in the event that the Transaction does not close.
16. The grounds as more particularly set out in the Fourth Report;
17. Section 100 of the *Courts of Justice* (Ontario);
18. Rule 37 of *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and
19. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The pleadings and proceedings herein;
- (b) The Fourth Report; and
- (c) Such further and other material as counsel may advise and this Honourable Court permit.

Date: July 6, 2017

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Canada Inc., in its capacity as both Receiver and
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assets, undertakings and property of Urbancorp
(Leslieville) Developments Inc., Urbancorp
(Riverdale) Developments Inc., and Urbancorp
(The Beach) Developments Inc.

TO: MASTER SERVICE LIST AND SUPPLEMENTARY SERVICE LIST

CANADIAN IMPERIAL BANK OF COMMERCE
Applicant

V.

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**NOTICE OF MOTION
RE: SALE OF BEACH LOTS**

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Construction Lien Trustee of the assets, undertakings
and property of Urbancorp (Leslieville) Developments
Inc., Urbancorp (Riverdale) Developments Inc., and
Urbancorp (The Beach) Developments Inc.

TAB 2

Court File No.: CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, C.B-3, AS AMENDED, SECTION 68 OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990 C. C. 30, AND UNDER SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C. C. 43**

**FOURTH REPORT
OF
ALVAREZ & MARSAL CANADA INC.,
AS RECEIVER AND MANAGER AND CONSTRUCTION LIEN TRUSTEE
OF THE ASSETS, UNDERTAKINGS AND PROPERTY OF URBANCORP
(LESLIEVILLE) DEVELOPMENTS INC., URBANCORP (RIVERDALE)
DEVELOPMENTS INC., & URBANCORP (THE BEACH) DEVELOPMENTS INC.**

July 6, 2017

TABLE OF CONTENTS

1.0	INTRODUCTION.....	1
1.1	CURRENCY.....	2
2.0	OVERVIEW OF BEACH SALE PROCESS	3
3.0	RESULTS OF BEACH SALE PROCESS.....	5
4.0	THE SUCCESSFUL BID	5
5.0	SEALING OF CONFIDENTIAL APPENDIX	7
6.0	CONCLUSION	7

1.0 INTRODUCTION

1. On May 31, 2016, the Ontario Superior Court of Justice (the “**Court**”) granted an order (the “**Appointment Order**”) appointing Alvarez & Marsal Canada Inc. as receiver and manager (in such capacity, the “**Receiver**”), pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended, and as construction lien trustee (in such capacity, the “**Construction Lien Trustee**”, and together with the Receiver, the “**Construction Receiver**”), pursuant to section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the “**CLA**”), of all of the assets, undertakings, and property acquired for, or used in relation to the business including all proceeds thereof (the “**Property**”) of Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), Urbancorp (Riverdale) Developments Inc. (“**UC Riverdale**”) and Urbancorp (The Beach) Developments Inc. (“**UC Beach**”, together with UC Riverdale, the “**Guarantors**”, and the Guarantors, together with UC Leslieville, the “**Debtors**”) (such proceedings, the “**Receivership Proceedings**”).
2. Prior to the appointment of the Construction Receiver, the Debtors carried on business as land developers principally focused on the development, construction and sale of residential projects located in the Greater Toronto Area.
3. Residential projects under development by the Debtors were typically “pre-sold” by unit and/or home pursuant to agreements of purchase and sale with the individual purchasers prior to commencement of the construction. One of residential projects subject to these Receivership Proceedings is a project located near east Toronto’s Beach neighbourhood (the “**Beach Project**”).
4. The development of the Beach Project was authorized by the City of Toronto pursuant to the terms of a Consent Agreement between UC Leslieville and the City dated July 27, 2012. UC Beach provided the City and Toronto Hydro with financial security in the form of letters of credit issued by the Canadian Imperial Bank of Canada (“**CIBC**”) totaling \$872,074.07 (the “**CIBC Letters of Credit**”) (i) to cover UC Beach’s obligations to the City in respect of the installation of municipal services, tree planting, among other things, and (ii) to connect with Toronto Hydro Electric System.
5. The Beach Project consists of thirty-two (32) semi-detached homes and one (1) detached home. All of these homes are freehold (as opposed to condominium units). Of the thirty-three (33) homes, twenty five (25) have been fully constructed and the sale of these homes was completed in 2014 and 2015. The remaining eight (8) lots¹ (the “**Beach Lots**”) are in the very early stages of construction (ranging from

¹ In March 2015, the Committee of Adjustment of the City rendered a Notice of Decision allowing for a minor variance which effectively authorized the number of homes to be constructed to increase from thirty-three (33) to thirty-five (35), consisting of thirty-four (34) semi-detached and one (1) detached home. As at the date of the Appointment Order, the Debtors had not severed the lots to reflect this decision.

raw land, to foundations only, to foundations with partial framing²). Of the Beach Lots, six (6) were subject to purchase and sale agreements (each an “**Original Beach APS**”) as at the date of the Appointment Order.

6. Given the very early stage of construction, the mortgagees on the Beach Project, being a lending syndicate consisting of CIBC (as administrative agent), Canadian Western Bank and Laurentian Bank of Canada (collectively, the “**Syndicate**”) and Terra Firma Capital Corporation (“**Terra Firma**”), were not prepared to advance monies to complete the Beach Project. As a result, the Construction Receiver concluded that it was incapable of performing the obligations under each Original Beach APS.
7. Accordingly, on May 2, 2017, the Construction Receiver sought and this Court granted an order (the “**Beach Project Order**”) authorizing the repudiation of each Original Beach APS and approving a sales and marketing process with respect to the Beach Lots on an “as is where is” basis, free and clear of each Original Beach APS (the “**Beach Sale Process**”). The Beach Project Order also sought approval of the engagement of Cushman & Wakefield Ltd., Brokerage (“**CW**”) to implement the Beach Sale Process, subject to the supervision of the Construction Receiver.
8. The purpose of this fourth report of the Construction Receiver (the “**Fourth Report**”) is to:
 - a. provide the Court with information with respect to the conduct and outcome of the Beach Sale Process;
 - b. request this Court’s approval of an order (the “**Approval and Vesting Order**”) (i) approving the transaction (the “**Transaction**”) with 2583510 Ontario Inc. (the “**Purchaser**”) contemplated by the agreement of purchase and sale dated June 23, 2017 and accepted by the Construction Receiver on June 27, 2017 (the “**APS**”), and (ii) vesting title in and to the Purchased Assets (as described in the APS) in the Purchaser free and clear of all liens, claims and encumbrances other than permitted encumbrances, as set out in the draft Approval and Vesting Order; and
 - c. request this Court’s approval of an order (the “**Ancillary Order**”) sealing from the public record a confidential appendix to the Fourth Report, being a summary of the other bids received by the Construction Receiver and the redacted terms of the APS.

1.1 CURRENCY

9. Unless otherwise noted, all currency references in this Fourth Report are to Canadian dollars.

² Recently, the Construction Receiver arranged for the removal of the framing as it posed a safety risk.

2.0 OVERVIEW OF BEACH SALE PROCESS

10. A summary of the Beach Sale Process approved by this Court in the Beach Project Order is set out in the Second Report of the Construction Receiver dated April 21, 2017 and is excerpted below for ease of reference:

Beach Sale Process Summary	
<p>Phase 1 – Solicitation and Marketing Process (Minimum 6 Weeks)</p>	<p>Within the first two (2) weeks, the Beach Listing Agent will begin to implement a proposed marketing plan (the “Beach Marketing Plan”). Under the Marketing Plan, the Beach Listing Agent will:</p> <ol style="list-style-type: none"> 1. List the Beach Lots for sale on the Multiple Listing Service (“MLS”) to be sold on an “as is, where is” basis; 2. Prepare a preliminary information memorandum (the “Brochure”). Such Brochure, in draft form will be provided to the Construction Receiver and the Construction Receiver shall provide amendments and subsequent approval to the Brochure prior to the Beach Listing Agent disseminating to the market and prior to posting on MLS. The Beach Listing Agent shall distribute the Brochure to its extensive client database and create a website dedicated to the Beach Lots, providing access to the Brochure and confidentiality agreement (also to be approved by the Construction Receiver); 3. Disseminate the following to prospective bidders: the Brochure and confidentiality agreements (to be made available online, with printed copies available upon request); and 4. Market the Beach Lots utilizing: <ol style="list-style-type: none"> a. a digital/web-based marketing strategy, and b. a traditional marketing strategy, such as Globe and Mail and Novae Res Urbis advertisements and a “For Sale” sign installed at a strategic location on one of the Properties.
<p>Phase 2 – Bid Review, Negotiations & Closings</p>	<p>The Beach Listing Agent will facilitate the offer solicitation process, promote competitive offers, and provide guidance to qualified buyers and the Construction Receiver. Bids are to be delivered to the downtown Toronto office of the Beach Listing</p>

(Approximately 8 weeks)	<p>Agent on the bid date, after an initial three-four week marketing period, which bid will include a mark-up of the form of purchase and sale agreement provided to potential bidders. The Beach Listing Agent, in conjunction with the Construction Receiver, will assess all submitted bids to determine either the successful bid, or whether additional negotiations are required.</p> <p>The Beach Listing Agent will work closely with the Construction Receiver to coordinate the transaction and assist the successful bidder (to the extent reasonable) with any due diligence required. The Beach Listing Agent shall also assist the Construction Receiver and its counsel (to the extent reasonable) with the closing process.</p>
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11. The Beach Sale Process was launched on May 4, 2017 with the retention of CW by the Construction Receiver. The Construction Receiver is satisfied that the Beach Sale Process was implemented by CW in accordance with the terms described above and in a fair and transparent manner. Specifically, in accordance with the Beach Sale Process:
 - a. During the first two weeks of its mandate, CW prepared the Brochure and established an electronic data room to be available to potential bidders;
 - b. on May 19 and May 23, 2017, CW sent an “email blast” attaching the Brochure to a select group of 1,000 developers and investors;
 - c. on May 25, 2017, the Beach Lots were listed on the Toronto Real Estate Board’s MLS system;
 - d. on May 29, 2017, CW distributed the Brochure to its full investor network consisting of over 4,000 parties, including builders and developers in the Greater Toronto Area;
 - e. on May 31, 2017, “For Sale” signs were posted in strategic locations on the Beach Lots to maximize coverage and visibility; and
 - f. the Beach Lots were also advertised in the following publications:
 - (i) on May 25 and May 30, 2017, in the national edition of The Globe and Mail newspaper; and
 - (ii) on May 31, 2017, in *Novae Res Urbis GTHA*, a local email newsletter focused on urban planning and development.
12. Potential bidders were required to execute a confidentiality agreement in order to gain access to a data room populated by CW, with the assistance of the

Construction Receiver. A form of agreement of purchase and sale was also made available in the data room, and bidders were asked to blackline any changes that were made to the agreement in their bid submission.

13. The deadline to submit bids was June 20, 2017 at 3:00 pm (Toronto time) (the “**Bid Deadline**”), which was communicated by CW in the Brochure provided to potential bidders.

3.0 RESULTS OF BEACH SALE PROCESS

14. In total, fifty-seven (57) interested parties executed confidentiality agreements and were provided access to the data room to conduct further due diligence.
15. At the Bid Deadline, seven (7) bids were submitted to CW. Immediately after the Bid Deadline, the Construction Receiver reviewed all bids received and consulted with CW and the principal stakeholders of the Beach Project. Following further discussion with the successful bidder by CW, the offer was subsequently finalized. In the Construction Receiver’s view, it was determined that the Purchaser’s bid represented the best offer for the estate, as it was the highest bid received and had very minimal changes to the proposed form of agreement of purchase and sale provided in the data room.
16. As a result, on June 27, 2017, the Construction Receiver accepted the Purchaser’s bid and entered into the APS, subject to Court approval.
17. For comparison purposes, a summary of the other bids received (the “**Bid Summary**”) is attached hereto as **Confidential Appendix “A”**. As the Bid Summary contains commercially sensitive information, the Construction Receiver intends to seek a sealing order with respect to the Bid Summary.

4.0 THE SUCCESSFUL BID

18. A summary of the key terms of the APS is set out below. A copy of the APS is attached hereto as **Appendix “B”**, save and except for the purchase price and deposit amount, which has been redacted due to commercial sensitivities. As described below, the Construction Receiver will be filing the redacted terms of the APS with the Court as **Confidential Appendix “A”** to this Report.
19. Defined terms in this section and not otherwise defined have the meaning ascribed to them in the APS.
20. The Purchaser is an affiliate of Skale Developments Inc., who is a real estate developer in the Greater Toronto Area.
21. Pursuant to the APS, the Purchaser will purchase the Debtors’ right, title and interest, if any, in and to the Purchased Assets consisting of the Beach Lots

(referred to as the “Real Property” in the APS), the Permits, the Plans and Drawing, and marketing materials in connection with the Beach Project (to the extent in the Construction Receiver’s possession or control). In addition, the Purchaser has agreed to assume, perform and fulfill the Assumed Liabilities, which include the obligations of the Debtors under the Permitted Liens, the Municipal Agreements and the Permits.

22. As is customary in a sale by a court officer, the sale of the Purchased Assets and assumption of the Assumed Liabilities is on an “as is, where is” basis without any representation, warranty or declaration from the Construction Receiver of any kind with respect to the Purchased Assets.
23. A ten percent (10%) Deposit has been paid by the Purchaser and the Deposit is being held by independent counsel to the Construction Receiver, in trust.
24. The balance of the Purchase Price is to be paid by the Purchaser on the Closing Date, subject only to the adjustments contemplated by the APS.
25. Other than the granting by this Court of the Approval and Vesting Order and payment of the balance of the Purchase Price, the only other material condition precedent to the Transaction is that the Purchaser must issue replacement letters of credit and/or security deposits to stand in place and stead of the CIBC Letters of Credit and cause the CIBC Letters of Credit to be returned to CIBC. The Transaction is not conditional on financing or any further due diligence.
26. The scheduled Closing Date of the Transaction is July 27, 2017.
27. In light of the foregoing, the Construction Receiver recommends that the Transaction be approved by the Court for the following reasons:
 - a. The canvassing of the market by CW for interested purchasers was professionally conducted in accordance with the Beach Sale Process previously approved by this Court;
 - b. The value of the Transaction represents the highest and best offer received with the least amount of changes to the form of agreement of purchase and sale to potential bidders;
 - c. The Construction Receiver is satisfied that the consideration received for the Purchased Assets is fair and reasonable in the circumstances; and
 - d. Both Terra Firma and the Syndicate, as mortgagees of the Beach Project, consent to approval of the Transaction.

5.0 SEALING OF CONFIDENTIAL APPENDIX

28. As indicated above, the Construction Receiver will be filing on a confidential basis with the Court a confidential appendix containing a summary of the other bids received in the Beach Sale Process and the redacted terms of the APS. The Construction Receiver is of the view that disclosure of the exact purchase price may negatively impact asset value in the event that the Transaction does not close. As with disclosure of the Purchase Price, disclosure of the terms of other bids prior to Closing is also commercially sensitive. The Ancillary Order contemplates the Construction Receiver filing with the Court an unredacted copy of the Sale Agreement after the Closing of the Transaction such that it forms part of the public record.

6.0 CONCLUSION

29. In light of the foregoing, the Construction Receiver requests that this Honourable Court grant the Approval and Vesting Order and Ancillary Order, in the form enclosed in the Motion Record of the Construction Receiver.

All of which is respectfully submitted, this 6th day of July, 2017.

**ALVAREZ & MARSAL CANADA INC. SOLELY IN ITS CAPACITY AS RECEIVER
AND MANAGER AND CONSTRUCTION LIEN TRUSTEE OF THE ASSETS,
UNDERTAKINGS AND PROPERTY OF URBANCORP (LESLIEVILLE)
DEVELOPMENTS INC., URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC. AND NOT ITS PERSONAL OR
CORPORATE CAPACITY**

Per:



Douglas R. McIntosh
President

APPENDIX “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

and

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

CONFIDENTIAL APPENDIX

**CONFIDENTIAL APPENDIX “A” TO THE
FOURTH REPORT OF THE CONSTRUCTION RECEIVER
DATED JULY 6, 2017**

TO BE KEPT CONFIDENTIAL BY THE COURT

**THE DOCUMENTS CONTAINED HEREIN ARE SUBJECT TO A
PROTECTIVE ORDER REQUEST AND ARE TO BE KEPT STRICTLY
CONFIDENTIAL AND ARE NOT TO BE DISCLOSED TO ANYONE
EXCEPT THE JUDGE HEARING THE MOTION.**

APPENDIX “B”

DATED: June 23, 2017

AGREEMENT OF PURCHASE AND SALE

by and between

**ALVAREZ & MARSAL CANADA INC.,
solely in its capacity as court-appointed receiver and manager and construction lien trustee
of all of the assets, undertaking and properties of Urbancorp (Leslieville) Developments
Inc. and Urbancorp (The Beach) Developments Inc., without personal or corporate liability**

as Construction Receiver

and

2583510 Ontario Inc.

as Purchaser

TABLE OF CONTENTS

		Page
ARTICLE 1 INTERPRETATION.....		1
Section 1.1	Defined Terms.....	1
Section 1.2	Governing Law.....	5
ARTICLE 2 PURCHASE AND SALE.....		5
Section 2.1	Purchased Assets.....	5
Section 2.2	“As Is, Where Is”.....	5
Section 2.3	Permitted Liens.....	6
Section 2.4	Development Charges.....	7
Section 2.5	Servicing.....	7
Section 2.6	Compliance by Purchaser with Development Agreement.....	7
Section 2.7	Pre-Closing Matters.....	8
Section 2.8	Letters of Credit and Deposits.....	9
ARTICLE 3 PURCHASE PRICE.....		9
Section 3.1	Purchase Price.....	9
Section 3.2	Deposit.....	9
Section 3.3	Adjustments.....	11
Section 3.4	HST.....	12
ARTICLE 4 REPRESENTATIONS AND WARRANTIES.....		13
Section 4.1	Construction Receiver’s Representations and Warranties.....	13
Section 4.2	Purchaser’s Representations and Warranties.....	14
Section 4.3	Survival of Representations and Warranties.....	14
ARTICLE 5 COURT APPROVAL CONDITION.....		14
Section 5.1	Court Approval Condition.....	14
ARTICLE 6 OTHER CLOSING CONDITIONS.....		15
Section 6.1	Conditions for the Purchaser.....	15
Section 6.2	Conditions for the Construction Receiver.....	15
Section 6.3	Non-Satisfaction of Conditions.....	16
ARTICLE 7 CLOSING.....		16
Section 7.1	Time and Place of Closing.....	16
Section 7.2	Insurance Matters.....	17
Section 7.3	Closing Documents.....	17
ARTICLE 8 TERMINATION.....		17
Section 8.1	Termination Rights.....	17

TABLE OF CONTENTS

(continued)

	Page
ARTICLE 9 MISCELLANEOUS	17
Section 9.1 Confidentiality	17
Section 9.2 Expenses	18
Section 9.3 Third Party Beneficiaries	18
Section 9.4 Construction Receiver's Capacity.....	18
Section 9.5 Construction Receiver's Certificate	19
Section 9.6 Notices	19
Section 9.7 Further Assurances.....	20
Section 9.8 Enurement	20
Section 9.9 Assignment	20
Section 9.10 Time of the Essence	21
Section 9.11 Counterparts	21
Section 9.12 Risk of Loss	21
Section 9.13 Communications Plan; Public Announcements; Confidentiality	21
Section 9.14 Planning Act.....	21
Section 9.15 Non-Merger.....	22
Section 9.16 Dispute Resolution.....	22
Section 9.17 Entire Agreement and Modification	22
Section 9.18 Solicitors as Agents.....	22
Section 9.19 Tender	22
Section 9.20 No Registration of Agreement.....	23
Section 9.21 Broker's Fees	23
Section 9.22 Authorizations.....	23
Section 9.23 Offer.....	23

AGREEMENT OF PURCHASE AND SALE

Agreement of Purchase and Sale dated as of June 23, 2017, between **ALVAREZ & MARSAL CANADA INC.**, solely in its capacity as court-appointed receiver and manager and construction lien trustee of all of the assets, undertaking and properties of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc., without personal or corporate liability (the "**Construction Receiver**") and **2583510 Ontario Inc.** (the "**Purchaser**").

WHEREAS:

- (1) On May 31, 2016, the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), in Court File No. CV-16-11409-00CL, issued an order (such order, as amended or supplemented from time to time, the "**Appointment Order**") appointing Alvarez & Marsal Canada Inc. as receiver and manager and construction lien trustee of all of the assets, undertaking and properties of Urbancorp (Leslieville) Developments Inc. ("**Leslieville**") and Urbancorp (The Beach) Developments Inc. ("**The Beach**", which together with Leslieville, are hereinafter collectively referred to as the "**Debtors**");
- (2) By Order dated May 2, 2017, the Court approved the process (the "**Sale Process**") proposed by the Construction Receiver for the marketing and sale of the Purchased Assets (as defined below);
- (3) The Purchaser has participated in the Sale Process; and
- (4) The Construction Receiver has agreed to sell all of the Debtors' right, title and interest, if any, in and to the Purchased Assets to the Purchaser, and the Purchaser has agreed to purchase all of the Debtors' right, title and interest, if any, in and to the Purchased Assets from the Construction Receiver on and subject to the terms and conditions of this Agreement.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

ARTICLE 1 INTERPRETATION

Section 1.1 Defined Terms.

As used in this Agreement, the following words and terms have the following meanings:

"**Agreement**" means this agreement of purchase and sale and all schedules and all instruments in amendment or confirmation of it.

"**Appointment Order**" has the meaning ascribed thereto in the first Recital above.

"**Approval and Vesting Order**" has the meaning ascribed to it in Section 5.1(1).

"**Assumed Liabilities**" has the meaning ascribed to it in Section 2.1.

"**Balance**" has the meaning ascribed to it in Section 3.1(b).

- 2 -

"Business Day" means any day of the year, other than a Saturday, Sunday or a day on which major banks located in Toronto, Ontario, are closed.

"Claim" means any claim, demand, action, cause of action, damage, loss, cost, obligation, penalty, liability or expense, including reasonable professional fees and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

"Closing" means the closing of the transactions contemplated herein.

"Closing Date" means 30 days after mutual execution of this Agreement.

"Closing Documents" means those documents and deliveries to be delivered in connection with the Closing as contemplated in this Agreement, including those set out in Section 7.3.

"Communications Plan" has the meaning ascribed to it in Section 9.13.

"Confidential Information" has the meaning ascribed to it in Section 9.1.

"Confidentiality Agreement" means the confidentiality agreement signed on June 1, 2017 by the Purchaser.

"Consent Agreement" has the meaning ascribed to it in Section 2.6.

"Construction Receiver's Certificate" has the meaning ascribed to it in Section 9.5.

"Court" has the meaning ascribed to it in the first Recital above.

"Cushman & Wakefield" means Cushman & Wakefield Ltd.

"Cushman & Wakefield Data Room" means the virtual data room containing the documents for inspection provided by link from Cushman & Wakefield's website as at the execution date of the Confidentiality Agreement, as may be updated from time to time by Cushman & Wakefield.

"Debtors" has the meaning ascribed to it in the first Recital above, and **"Debtor"** means either one of the Debtors.

"Deposit" has the meaning ascribed to it in Section 3.1(a).

"Excluded Assets" means the following assets of the Debtors related to the Real Property:

- (a) refunds of realty taxes attributable to the years prior to 2017 and to the portion of 2017 attributable to the period prior to the Closing Date, as provided in Section 3.3(2) below;

- 3 -

- (b) any and all other tax refunds (including, without limitation, any goods and services tax or harmonized sales tax refunds) that are owing or may become owing to either Debtor and which relate to the period preceding the Closing Date;
- (c) the interest of either Debtor in contracts of insurance, insurance policies (including director & officer insurance policies) and the full benefit of the Debtors' rights under or in respect of the foregoing, including in and to any cash surrender value thereof;
- (d) original income tax (but not property) records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Debtors;
- (e) any claims, refunds, causes of action, rights of recovery, rights of set-off and rights of recoupment whenever and howsoever arising and the interest of either Debtor in any litigation and in the proceeds of any judgment, order or decree issued or made in respect thereof and any insurance proceeds recoverable or claims payable, which arise in respect of facts, occurrences, events, accidents or losses occurring or suffered prior to Closing;
- (f) letters of credit and deposits (collectively, the "Letters of Credit") provided by or on behalf of either Debtor with respect to any of the Permitted Liens or the development of the Project, as more particularly described on Schedule "C" attached hereto;
- (g) any bond or other collateral provided in favour of Tarion Warranty Corporation, and any excess deposit insurance facility;
- (h) cash, cash equivalents and bank or other deposits; and
- (i) books and records of the Construction Receiver.

"General Conveyance" means a general conveyance of the Purchased Assets from the Construction Receiver to the Purchaser and assumption of certain liabilities as provided herein by the Purchaser to be entered into as of the Closing Date between the Construction Receiver and the Purchaser, substantially in the form attached as Schedule "D".

"HST" has the meaning ascribed to it in Section 3.4.

"HST Certificate, Undertaking and Indemnity" has the meaning ascribed to it in Section 3.4(d).

"Interim Period" means the period between the date of acceptance of this Agreement by the Construction Receiver and the Closing Date.

"Leslieville" has the meaning ascribed to it in the first Recital above.

- 4 -

"Letters of Credit" has the meaning ascribed to it in paragraph (f) of the definition of "Excluded Assets".

"Lien" means any mortgage, charge, pledge, hypothec, security interest, assignment, lien (statutory or otherwise), title retention agreement, conditional sale, deemed or statutory trust or any other arrangement or condition which, in substance, secures payment or performance of an obligation, other than Permitted Liens.

"Municipal Agreements" has the meaning ascribed to it in Section 2.6.

"Off-Title Compliance Matters" means open permits or files, work orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any governmental authorities or any open building permits.

"Permits" means all orders, permits, approvals, consents, waivers, licences and similar authorizations from governmental or public authorities held or used by either Debtor which are capable of assignment by the Construction Receiver to the Purchaser.

"Permitted Liens" means the liens, encumbrances, easements, restrictive covenants, agreements and other claims listed in Schedule "B" hereto.

"Plans and Drawings" means all plans, specifications, designs, surveys, drawings, studies and reports in connection with the design, development and construction of the Real Property and the Project, to the extent in the Construction Receiver's possession or control.

"Project" means the proposed residential development on the Real Property, construction of which has not been completed.

"Public Announcement" has the meaning ascribed to it in Section 9.13.

"Purchase Price" shall have the meaning specified in Section 3.1.

"Purchased Assets" means all of the Debtors' right, title and interest, if any, in and to the following:

- (a) the Real Property;
- (b) the Permits;
- (c) the Plans and Drawings; and
- (d) marketing materials in connection with the Project, to the extent in the Construction Receiver's possession or control,

but excluding the Excluded Assets.

- 5 -

“**Real Property**” means the lands and premises legally described in Schedule “A” hereto, including all buildings, structures, fixtures, systems and facilities situate thereon and/or forming a part thereof, but only to the extent constructed as of the date hereof.

“**Receiving Party**” has the meaning ascribed to it in Section 9.19.

“**Sale Process**” has the meaning ascribed to it in the second Recital above.

“**Settlement Approval Order**” means the order of the Court dated May 2, 2017, which among other things, approves various agreements and arrangements in order to give effect to a proposed settlement amongst certain stakeholders of the Debtors, as such order may be amended, restated or supplemented from time to time.

“**Tax Credit**” has the meaning ascribed to it in Section 3.3(2).

“**Tendering Party**” has the meaning ascribed to it in Section 9.19.

Section 1.2 Governing Law.

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein which apply to contracts made and to be performed entirely in Ontario.

ARTICLE 2 PURCHASE AND SALE

Section 2.1 Purchased Assets.

- (1) Subject to the terms and conditions hereof, the Construction Receiver agrees to sell, assign and transfer the Purchased Assets to the Purchaser and the Purchaser agrees to purchase the Purchased Assets from the Construction Receiver, on the Closing Date.
- (2) Contemporaneously with the purchase of the Purchased Assets pursuant to the Approval and Vesting Order, the Purchaser shall assume, and agrees to perform and fulfil, the following obligations and liabilities of the Debtors and the Construction Receiver with respect to the Purchased Assets as and from 12:01 a.m. (Toronto time) on the Closing Date:
 - (a) all obligations and liabilities of the Debtors and the Construction Receiver under the Permitted Liens, the Municipal Agreements and the Permits; and
 - (b) all other obligations and liabilities expressly assumed under this Agreement
 (collectively, the “**Assumed Liabilities**”).

Section 2.2 “As Is, Where Is”.

The Purchaser shall accept the Purchased Assets and the Assumed Liabilities on an entirely “as is, where is” basis without regard to the state of construction, repair, condition, use

- 6 -

or occupation of the Purchased Assets, the state of completion or location of structures, walls, fences, wires, lines, pipes or conduits, in, on or outside of the Real Property, including, without limitation, the condition of the soil, subsoil, surface or other physical condition of the Real Property and Purchased Assets; the existence or non-existence of hazardous or toxic materials, wastes, substances or mould, including without limitation, underground and/or above ground storage tanks; the fitness or suitability of the Real Property and the Purchased Assets for any particular use or purpose; applicable restrictive covenants, governmental laws, rules, regulations, and limitations; the zoning, subdivision, use, density, location or development or proposed development of the Real Property and Purchased Assets; the necessity or availability of any rezoning, zoning variances, land use, zoning or building entitlements affecting the Real Property, conditional use permits, special management area permits, building permits, environmental impact statements and other governmental permits, approvals or acts; the physical condition or structural integrity of the Real Property and the Purchased Assets, including, without limitation, the structural elements, foundation, roof, appurtenances, access, landscaping and the electrical, mechanical, HVAC, plumbing, and utility systems, facilities and appliances, including the state of construction thereof and/or the conformity thereof to any plans or specifications; the Real Property and Purchased Assets' compliance with any building code, and other laws, statutes, regulations or ordinances; the size, dimension, or topography of the Real Property or the Purchased Assets; any surface, soil, geologic, drainage, flooding or groundwater conditions or other physical conditions and characteristics of or affecting the Real Property and Purchased Assets or adjoining land, such as drainage, flooding, air, conservation restrictions and its investment value or resale value and with all faults, limitations and defects (latent and apparent); the existence of any default on the part of either Debtor. The Purchaser agrees to accept the Purchased Assets without representation and/or warranty and without recourse to the Debtors or the Construction Receiver with respect to the condition of any of them. The Purchaser acknowledges that the Construction Receiver makes no representation, warranty or declaration of any kind with respect to any aspect of the Purchased Assets (including any representation or warranty express or implied pursuant to the *Sale of Goods Act* (Ontario) or the *New Home Warranties Plan Act* (Ontario)) or with respect to description, physical or environmental condition, size, marketability, zoning, rentable area, development potential, compliance with law, fitness for any particular purpose, the availability of public utilities, access, parking and/or services for the Purchased Assets or the Project, any projections, estimates or budgets delivered to or made available to the Purchaser of future construction costs or future revenues (or any component thereof) of the Project, accuracy or completeness of documentation provided by the Construction Receiver, any agent, employee or other person or provided in the Cushman & Wakefield Data Room or any other matter whatsoever, and that the Purchaser has carried out and relies on the results of its own examinations, investigations and searches with respect to the Purchased Assets. The provisions of this Section shall survive the Closing of this transaction.

Section 2.3 Permitted Liens.

The Purchaser shall, at Closing and subject to the terms and conditions herein, accept title to the Real Property pursuant to the Approval and Vesting Order and subject to the following:

- (i) the Permitted Liens (whether or not the Permitted Liens are in good standing);
- (ii) the Municipal Agreements;

- 7 -

- (iii) the restrictive covenants set forth in Schedule "G" attached hereto (to be appended as a schedule to the Transfer(s)/Deed(s) to be delivered hereunder);
- (iv) any easements, agreements, encroachments or other burdens or encumbrances which would not materially adversely affect the use of the Real Property; and
- (v) easements, rights-of-way or rights to re-enter reserved in favour of the Debtors and the City of Toronto or its agents to enter on the Real Property, as set out in Schedule "F" hereto, or as otherwise contemplated herein (to be appended as a schedule to the Transfer(s)/Deed(s) to be delivered hereunder).

In addition, without limiting the generality of Section 2.2, the Purchaser acknowledges and agrees that the Purchased Assets may be subject to certain Off-Title Compliance Matters, and that the Construction Receiver shall not be responsible for rectification of any matters disclosed by any governmental authority or quasi-governmental authority having jurisdiction including, without limitation, any outstanding Off-Title Compliance Matters.

Section 2.4 Development Charges.

Without limiting the generality of Section 2.2, the Purchaser acknowledges and agrees that, with respect to the development of the Real Property and/or the Project, the Purchaser is fully responsible for any requirement, to the extent not already provided or paid, to provide any parkland dedication, the payment of any parkland levy, lot levy, development charge and education development charge, the payment of any other financial obligation imposed or triggered by the development of the Real Property or the Project, and any other obligation of any kind under any development agreement applicable to the development of the Real Property or the Project (including, without limitation, the Consent Agreement), and, in respect of the aforementioned list, the Purchaser shall be fully responsible whether any such matter is new or outstanding as at the Closing Date.

Section 2.5 Servicing.

Without limiting the generality of Section 2.2, the Purchaser shall satisfy itself with respect to all servicing matters respecting the Real Property. The Purchaser acknowledges that it is responsible for all pre-conditions respecting the issuance of the building permit or building permits with respect to the Real Property.

Section 2.6 Compliance by Purchaser with Development Agreement.

The Purchaser, during the development, construction and operation of the Real Property, shall comply with the provisions of the consent agreement (the "Consent Agreement") made July 27, 2012 between Leslieville, as owner, and the City of Toronto, notice of which was registered on August 21, 2012, as Instrument No. AT3106430, and any other existing agreements, development agreements or other municipal agreements with, easements in favour of or inhibiting orders registered by, the City of Toronto and any hydro-electric, telephone, water, sewage, cable t.v., natural gas or other utility or service authority (collectively, together

with the Consent Agreement, the "Municipal Agreements") including, without limitation, the site specific obligations relating to the Real Property and the street/boulevard tree planting obligations on the perimeter of the Real Property. In particular and without limiting the generality of the foregoing, the Purchaser shall grade and drain the Real Property in accordance with the approved grading and drainage plan and shall, at all times prior to final acceptance of the works by the City of Toronto be responsible for the drainage of the Real Property. The Purchaser shall, on the sale of the Real Property or any part of it, reserve its rights as may be necessary to enable the Debtors or the City of Toronto or its agents to enter on the Real Property or such relevant part thereof, at all times prior to final acceptance of the works by the City of Toronto and in accordance with any Municipal Agreements to undertake drainage rectification work and modifications to the surface drainage features of the Real Property in accordance with the approved grading and drainage plan, and the Transfer(s)/Deed(s) or Approval and Vesting Order in favour of the Purchaser shall contain a similar reservation.

Should drainage rectification work become necessary in the discretion of the Executive Director of Technical Services for the City of Toronto at any time prior to final acceptance of the works in accordance with any Municipal Agreement, the Purchaser, or its successors in title, shall carry out the drainage rectification work upon being so instructed by the Executive Director of Technical Services for the City of Toronto or any of his/her designees. The Purchaser agrees that neither it nor its successors and assigns will alter the grading or change the elevation or contour of the Real Property except in accordance with drainage plans approved by the Executive Director of Technical Services for the City of Toronto. The Purchaser shall include in all conveyances respecting the Real Property a covenant executed by its purchaser and binding on its successors and assigns in which the purchaser agrees not to alter the grading or change the elevation or contour of the Real Property except in accordance with the drainage plans approved by the Executive Director of Technical Services for the City of Toronto and the transfer/deed or Vesting Order in favour of the Purchaser shall contain a similar reservation, as follows: "The Purchaser covenants and agrees, for itself, and its successors and assigns, that they will not alter the slope of the lands comprising the Real Property nor interfere with any drains established on the Real Property, nor alter the width of the driveway, except in accordance with the approved Lot Grading and Building Siting Control Plan (as defined in the Consent Agreement), without the written consent of the City of Toronto, and that they will maintain any such alterations approved by the City of Toronto."

Section 2.7 Pre-Closing Matters.

The Construction Receiver shall, from the date hereof until the Closing or earlier termination of this Agreement:

- (a) continue to maintain the current insurance on the Purchased Assets;
- (b) give the Purchaser reasonable access to the Purchased Assets from and after the date of acceptance of this Agreement by the Construction Receiver, on reasonable prior notice to the Construction Receiver, and in the company of a representative of the Construction Receiver when at the Real Property, and the Purchaser shall exercise such access rights without material interference or disruption to the operations at the Real Property and in a manner so as not to cause damage, loss, cost or expense to the Construction Receiver, the Debtors or the Real Property;

- 9 -

the Purchaser covenants to promptly restore the Real Property to its condition immediately preceding the Purchaser's investigations, but the Purchaser confirms that it shall not be permitted to conduct any soil or environmental testing or any other testing involving physical intrusion of the Real Property; the Purchaser shall indemnify and save the Construction Receiver and the Debtors harmless from any Claims relating to the repair of damage to the Real Property and/or injuries to persons and/or property arising out of such entry, with such indemnity surviving any termination of this Agreement.

Section 2.8 Letters of Credit and Deposits

On the Closing Date, the Purchaser shall issue replacement letters of credit and/or security deposits for the Letters of Credit and shall cause the Letters of Credit to be released and returned to the applicable issuer (the "Issuer") without any further drawings thereunder.

ARTICLE 3 PURCHASE PRICE

Section 3.1 Purchase Price.

The purchase price (the "Purchase Price") for the Purchased Assets shall be [REDACTED]. Subject only to adjustment in accordance with this Agreement, the Purchase Price shall be paid to the Construction Receiver as follows:

- (a) as to the sum of [REDACTED] (the "Deposit"), by bank draft from any of the five largest Canadian Schedule I chartered banks payable to or to the order of the Construction Receiver's solicitors, Blake, Cassels & Graydon LLP, in trust, with the Purchaser's submission of this offer for the purchase of the Purchased Assets, to be held in trust as a deposit and invested in accordance with the provisions of Section 3.2 below pending the completion or other termination of this Agreement; and
- (b) as to the balance of the Purchase Price (the "Balance"), subject only to the adjustments made in accordance with this Agreement, by wire transfer of immediately available funds from any of the five largest Schedule I Canadian chartered banks pursuant to the Large Value Transfer System as administered by the Canadian Payments Association payable to the Construction Receiver or as it may direct on the Closing Date.

Section 3.2 Deposit

- (a) Following the date of acceptance of this Agreement by the Construction Receiver, the Deposit shall be invested by the Construction Receiver's solicitors, in trust, in an interest bearing account or term deposit or guaranteed investment certificate with or issued by one of the Canadian Schedule I Canadian chartered banks pending completion of this transaction or earlier termination or non-completion of this Agreement. In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Construction Receiver's solicitors are not

- 10 -

bound in any way by any agreement other than this Section 3.2, and the Construction Receiver's solicitors shall not and shall not be considered to assume any duty, liability or responsibility other than to hold the Deposit, and any interest earned thereon, in accordance with the provisions of this Section 3.2, and to pay the Deposit, and any interest earned thereon, to the person becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the parties hereto as to entitlement to the Deposit. In the case of such dispute, the Construction Receiver's solicitors may, in their sole, subjective and unreviewable discretion, or shall, if requested by any of the parties hereto, pay the Deposit and any and all interest earned thereon into Court, whereupon the Construction Receiver's solicitors shall have no further obligations relating to the Deposit or any interest earned thereon. The Construction Receiver's solicitors shall not, under any circumstances, be required to verify or determine the validity of any notice or other document whatsoever delivered to the Construction Receiver's solicitors and the Construction Receiver's solicitors are hereby relieved of any liability or responsibility for any Claims which may arise as a result of the acceptance by them of any such notice or other document in good faith.

- (b) If the transaction hereunder is completed, the Deposit shall be paid to the Construction Receiver on Closing and applied to the Purchase Price. Interest on the Deposit shall accrue from the date of investment of the Deposit by the Construction Receiver's solicitors until the Closing or other termination or non-completion of this Agreement. If the transaction hereunder is successfully completed, all interest earned on the Deposit until Closing shall be paid to the Purchaser within five (5) Business Days of Closing.
- (c) If the transaction hereunder is terminated or not completed by reason of a breach by the Purchaser of its representations, warranties or covenants or other default of the Purchaser under this Agreement, the full amount of the Deposit together with all accrued interest earned thereon, if any, shall become the absolute property of, and may be retained by, the Construction Receiver as liquidated damages (and not as a penalty) to compensate the Construction Receiver for the expenses incurred and the delay caused and opportunities foregone as a result of the failure of the transaction hereunder to close. The entitlement of the Construction Receiver to receive and retain the Deposit together with all accrued interest earned thereon, if any, in such circumstances shall not limit the Construction Receiver's right to exercise any other rights or remedies which the Construction Receiver may have against the Purchaser in respect of such breach or default. If the transaction hereunder is terminated or not completed for any other reason, the Deposit together with all interest accrued thereon, if any, shall be thereupon returned to the Purchaser.
- (d) In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Construction Receiver's solicitors shall release the Deposit and any interest earned thereon to the persons becoming entitled thereto in accordance with the provisions of this Section 3.2 except in the event of a dispute

- 11 -

between the parties hereto as to entitlement to the Deposit and any interest earned thereon in which event the Construction Receiver's solicitors may, in their sole, unfettered and unreviewable discretion, pay the Deposit and any interest earned thereon into Court, whereupon the Construction Receiver's solicitors shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.

- (e) The parties hereto acknowledge that the Construction Receiver's solicitors may rely upon the provisions of this Section 3.2 notwithstanding that the Construction Receiver's solicitors are not a party to this Agreement. The provisions of this Section 3.2 shall survive the termination or non-completion of the transaction hereunder.

Section 3.3 Adjustments.

- (1) Except to the extent expressly provided herein, the Construction Receiver shall be responsible for all expenses referred to below and shall be entitled to all revenues accrued from the Purchased Assets for the period ending on the day before the Closing Date. From and including the Closing Date, the Purchaser shall be responsible for all expenses relating to the Purchased Assets and shall be entitled to all revenues from the Purchased Assets. Adjustments shall be made solely in respect of the following items (and the other items expressly contemplated hereunder):
 - (a) realty taxes and other similar levies; and
 - (b) to the extent applicable, the costs of water, sewage, hydro-electric power, gas and other utilities, to the extent same cannot be determined as at the Closing Date from a meter or similar device definitively showing the amount for which the Construction Receiver is responsible up until such time.

Fire and other insurance shall not be transferred. In the event that final billings are not available at the time of calculating the adjustments, the adjustments shall be made on the basis of the most recent billings or the best evidence then available and, provided that final billings become available within thirty (30) days after the Closing Date, the Purchaser and the Construction Receiver agree to readjust all such items, if necessary. This agreement to readjust shall survive the completion of the transaction for a period of thirty (30) days after the Closing Date, but any claim for adjustment by any party made within such period shall remain in effect after the expiration thereof until resolved. If final billings do not become available within thirty (30) days after the Closing Date, the Purchaser and the Construction Receiver agree not to readjust such items. The Construction Receiver shall deliver a statement of adjustments to the Purchaser three (3) Business Days before the Closing Date.

- (2) In the event that there are any realty tax appeals for the period prior to the Closing Date, the Construction Receiver shall be entitled to all refunds or reassessments of such realty taxes attributable to the years prior to 2017 and to the portion of 2017 attributable to the period prior to the Closing Date. As and from the Closing Date, the Purchaser shall be entitled to continue such appeals at its own expense. The Purchaser shall pay any realty

- 12 -

tax refunds received by it (net of any fees and disbursements payable to any consultant or advisor) as follows:

- (a) the Construction Receiver and/or Purchaser shall receive such realty tax refunds or reassessment (each in accordance with its *pro rata* entitlement for the year in which the Closing Date occurs, the Construction Receiver exclusively for years prior to the year in which the Closing Date occurs and the Purchaser exclusively for years after the year in which the Closing Date occurs).

To the extent the Construction Receiver receives any realty tax refunds on or after the Closing Date, it shall distribute them in accordance with this Section. To the extent that the Purchaser receives any realty tax refunds on or after the Closing Date, it shall distribute them in accordance with this Section. In either case, if a party hereunder receives any of the realty tax refund money to which the other party is entitled hereunder, such refund money shall be deemed to be the property of, segregated, received and held in trust for the benefit of the other party, and to be promptly paid in accordance with the provisions hereof. To the extent that the Purchaser receives a tax credit or reassessment in lieu of a cash refund as a realty tax refund (a "Tax Credit"), the dollar value equivalent of such Tax Credit shall be allocated as set out in this Section 3.3(2) and the Purchaser shall pay to the Construction Receiver the amounts owing to it as set out in this Section in readily available funds.

- (3) The obligations of the Construction Receiver and the Purchaser pursuant to this Section 3.3 shall survive (for the period set out above, if applicable) and not merge on the Closing of the transaction hereunder.

Section 3.4 HST.

With respect to harmonized sales tax ("HST") payable pursuant to the *Excise Tax Act* (Canada), in addition to the representations and warranties set forth in Section 4.2, the Purchaser covenants that:

- (a) the Purchaser is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* with respect to HST, and that its registration number is: **75468 5329 RT0001**, which registration shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Purchaser has entered into this Agreement and is purchasing the Purchased Assets on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of another person;
- (c) to the extent permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial legislation, the Purchaser shall self-assess and remit directly to the appropriate governmental authority any HST imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial legislation payable in connection with the purchase and sale of the Purchased Assets,

- 13 -

including the transfer of the Debtors' real property interests in the corresponding Purchased Assets;

- (d) on Closing, the Purchaser will pay, in addition to the Purchase Price, and the Construction Receiver will collect, any HST imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax exigible on the purchase and sale of the Purchased Assets, except to the extent that the Purchaser is permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial legislation to self-assess and remit such taxes directly to the appropriate governmental authority, and the Purchaser shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration number issued by Canada Revenue Agency under the *Excise Tax Act* and incorporates the provisions of this Section 3.4 (the "HST Certificate, Undertaking and Indemnity");
- (e) the Purchaser shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial legislation; and
- (f) the Purchaser shall indemnify and save the Construction Receiver and the Debtors harmless from and against any and all HST imposed under the *Excise Tax Act* and any similar value added or multi-stage tax or sales tax, penalties, costs and/or interest or other amounts which may become payable by or assessed against the Construction Receiver or either Debtor as a result of any failure by the Construction Receiver to collect and remit any HST payable under the *Excise Tax Act* and applicable on the sale and conveyance of the Purchased Assets by the Construction Receiver to the Purchaser or as a result of any inaccuracy, misstatement, or misrepresentation made by the Purchaser in connection with any matter raised in this Section 3.4 or in the HST Certificate, Undertaking and Indemnity or failure by the Purchaser to comply with the provisions of this Section 3.4 or the HST Certificate, Undertaking and Indemnity.

The provisions of this Section 3.4 shall survive and not merge on Closing.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

Section 4.1 Construction Receiver's Representations and Warranties.

The Construction Receiver represents and warrants to the Purchaser, as of the date of acceptance of this Agreement by the Construction Receiver and as of Closing, and acknowledges that the Purchaser is relying on same, that:

- (a) subject to the approval of the Court, the Construction Receiver has the power, authority and capacity to enter into this Agreement and to carry out the transaction contemplated hereby; and

- 14 -

- (b) the Construction Receiver has not authorized any Lien affecting any of the Purchased Assets (other than any Permitted Liens, any charge created by the Appointment Order or the Settlement Approval Order, or arising by operation of law in the normal course).

Section 4.2 Purchaser's Representations and Warranties.

The Purchaser represents and warrants to the Construction Receiver as of the date of acceptance of this Agreement by the Construction Receiver and as of Closing, and acknowledges that the Construction Receiver is relying on same, that:

- (a) the Purchaser is a subsisting corporation and has full corporate power and authority to enter into and to perform its obligations under this Agreement;
- (b) the Purchaser is a Canadian for purposes of the *Investment Canada Act*;
- (c) the Purchaser has sufficient cash, available lines of credit or other sources of immediately available funds to enable it to make all the payments required of it hereunder; and
- (d) the Purchaser is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* (Canada).

Section 4.3 Survival of Representations and Warranties.

The representations and warranties herein shall survive the Closing for a period of sixty (60) days from the Closing Date, except for claims for breach of any such representation or warranty made within such sixty (60) day period.

ARTICLE 5 COURT APPROVAL CONDITION

Section 5.1 Court Approval Condition.

- (1) No party shall be obligated to complete the transactions contemplated by this Agreement unless the Construction Receiver obtains an Order substantially in the form attached hereto as Schedule "E" (the "Approval and Vesting Order").
- (2) The Construction Receiver shall apply to the Court for the Approval and Vesting Order as soon as reasonably practicable. The Construction Receiver shall advise the Purchaser at least three (3) Business Days prior to service of such application of the parties to whom notice of such application is to be sent, and shall provide notice in accordance with the Rules of Civil Procedure or as determined by Court order to such additional parties as the Purchaser may demonstrate to the satisfaction of the Construction Receiver, acting reasonably, to have an absolute or contingent interest in the Purchased Assets and whose interest may legally be vested out by Approval and Vesting Order.
- (3) The Purchaser shall promptly provide to the Construction Receiver all such information and assistance within the Purchaser's power as the Construction Receiver may reasonably

- 15 -

require to obtain the Court's approvals, including without limitation, the commitment letter, term sheet or other financing documentation setting out the terms of the financing obtained by the Purchaser in connection with the transactions contemplated herein (provided that to the extent requested by the Purchaser, its financing arrangements and any other commercially sensitive information that it provides shall be sealed).

- (4) Notwithstanding anything else contained in this Agreement, if the Construction Receiver has not yet obtained the Approval and Vesting Order or is prevented from closing the purchase and sale transaction contemplated by this Agreement as a result of any person obtaining a stay of the Approval and Vesting Order, the Construction Receiver shall have the option of, subject to Section 8.1(1) below, extending the Closing Date for a period or periods of time by notice in writing to the Purchaser or to the Purchaser's solicitors.
- (5) Notwithstanding anything else contained in this Agreement, if the Court shall refuse to grant the Approval and Vesting Order, either party shall have the right to immediately terminate this Agreement. In the event of termination under this Section, the full amount of the Deposit and all interest earned thereon shall be immediately returned to the Purchaser, and neither party shall have any further liabilities or obligations to the other party.

ARTICLE 6 OTHER CLOSING CONDITIONS

Section 6.1 Conditions for the Purchaser.

The obligation of the Purchaser to complete the purchase of the Purchased Assets contemplated by this Agreement is subject to fulfilment of the following conditions on or before the Closing Date, all of which (other than the condition in Section 6.1(d)) are included for the exclusive benefit of the Purchaser and may be waived by the Purchaser in whole or in part:

- (a) the representations and warranties of the Construction Receiver contained in Article 4 hereof shall be true and correct as of the Closing Date;
- (b) the Construction Receiver shall have complied with all terms and conditions contained in this Agreement applicable to it prior to the Closing Date in all material respects;
- (c) the Construction Receiver shall have executed and delivered the Closing Documents referred to in Section 7.3(1); and
- (d) the Approval and Vesting Order shall have been granted by the Court and such order shall not be the subject of a stay.

Section 6.2 Conditions for the Construction Receiver.

The obligation of the Construction Receiver to complete the sale of the Purchased Assets contemplated by this Agreement is subject to fulfilment of the following conditions on or before the Closing Date, all of which (other than the condition in Section 6.2(f)) are included for the

- 16 -

exclusive benefit of the Construction Receiver and may be waived by the Construction Receiver, in whole or in part:

- (a) the representations and warranties of the Purchaser contained in Article 4 hereof shall be true and correct as of the Closing Date;
- (b) the Purchaser shall have complied with all terms and conditions contained in this Agreement applicable to it prior to the Closing Date in all material respects;
- (c) the Purchaser shall have issued the replacement letters of credit and/or security deposits for the Letters of Credit, and have caused the Letters of Credit to be returned to the Issuer as contemplated in Section 2.8;
- (d) receipt of the Balance (as adjusted in accordance with this Agreement) by way of wire transfer of immediately available funds;
- (e) the Purchaser shall have executed and delivered, or caused to be executed and delivered, the Closing Documents referred to in Section 7.3(2); and
- (f) the Approval and Vesting Order shall have been granted by the Court and such order shall not be the subject of a stay.

Section 6.3 Non-Satisfaction of Conditions.

If any of the conditions set out in Section 5.1, Section 6.1 or Section 6.2 is not satisfied or performed on or before the Closing Date (as such date may be extended pursuant to Section 5.1(4) in respect of the condition set out in Section 5.1) any party, in the case of the conditions set out in Section 5.1, or the Purchaser, in the case of the conditions set out in Section 6.1, or the Construction Receiver, in the case of the conditions set out in Section 6.2, may either (i) terminate this Agreement by written notice to the other parties hereto delivered on or before the Closing Date in which case no party shall be under any further obligation to the others to complete the transactions contemplated by this Agreement, or (ii) except in the case of the conditions contained in Section 5.1, waive compliance with any such condition without prejudice to its right of termination of this Agreement in respect of the non-satisfaction or performance of any other condition.

Each party shall use its reasonable efforts to satisfy the closing conditions set forth herein that are within its reasonable control.

All conditions to be satisfied on Closing shall be deemed to be satisfied if Closing occurs.

ARTICLE 7 CLOSING

Section 7.1 Time and Place of Closing.

The completion of the transactions contemplated by this Agreement shall take place prior to 5:00 p.m. (Toronto time) on the Closing Date at the offices of the Construction Receiver's

- 17 -

solicitors, Blake, Cassels & Graydon LLP, or at such other place as may be agreed upon among the parties hereto.

Section 7.2 Insurance Matters.

Any property, liability and other insurance maintained by the Construction Receiver shall not be transferred as of the Closing Date, but shall remain the responsibility of the Construction Receiver until the Closing Date. The Purchaser shall be responsible for placing its own property, liability and other insurance coverage with respect to the Purchased Assets in respect of the period from and after the Closing Date.

Section 7.3 Closing Documents.

- (1) On Closing, subject to the provisions of this Agreement, the Construction Receiver shall execute and deliver the General Conveyance, the Transfer(s)/Deed(s) of the Real Property (which Transfer(s)/Deed(s) shall exclude the implied covenants in Section 5(1)I(ii), (iii), (iv) and (v) of the *Land Registration Reform Act*) and all other documents contemplated by this Agreement or the Approval and Vesting Order.
- (2) On Closing, subject to the provisions of this Agreement, the Purchaser shall execute and deliver, or cause to be executed and delivered, the General Conveyance, the HST Certificate, Undertaking and Indemnity, the Matching Security, if applicable, all other documents contemplated by this Agreement and any specific assumption agreement as may be required for any Municipal Agreement.

ARTICLE 8 TERMINATION

Section 8.1 Termination Rights.

- (1) This Agreement may be terminated by the Purchaser or the Construction Receiver if Closing has not occurred by 5:00 p.m. (Toronto time) on that date that is **45 days after Closing Date**, provided that the Purchaser may not terminate this Agreement if its default is the reason for such failure.
- (2) If this Agreement is terminated as provided in this Section 8.1 or in Section 6.3, the Deposit shall be dealt with as provided in Section 3.2.

ARTICLE 9 MISCELLANEOUS

Section 9.1 Confidentiality

The Purchaser shall keep in strict confidence all Confidential Information made available or obtained by it with respect to the Purchased Assets in accordance with the terms of the Confidentiality Agreement, *mutatis mutandis*. For the purposes of this Section, "**Confidential Information**" has the meaning ascribed to it in the Confidentiality Agreement, and includes, for greater certainty, the information contained in the Cushman & Wakefield Data Room, the transaction contemplated by this Agreement, the existence of this Agreement, the terms and

conditions of this Agreement and the Purchase Price. Notwithstanding the foregoing, during the currency of this Agreement, the Purchaser and its duly authorized representatives may contact and hold discussions with, orally and/or in writing, a representative of any governmental or public authority having jurisdiction or any representative of a party to a Municipal Agreement where: (i) the Purchaser, in its commercially reasonable judgement, believes such contact is necessary or is advisable in facilitating the Closing and/or the ownership and/or operation of the Purchased Assets after Closing, and (ii) the counterparty is advised of and agrees to hold any disclosed confidential information in confidence. In addition, the Purchaser shall be permitted to submit an application for registration with Tarion. The provisions of this Section 9.1 shall terminate on the Closing of this Agreement, but shall otherwise survive any other termination of this Agreement in accordance with the terms of the Confidentiality Agreement.

Section 9.2 Expenses.

Except as otherwise expressly provided herein, all costs and expenses (including the fees and disbursements of legal counsel, investment advisers and auditors) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses. The Purchaser shall be solely responsible for and shall pay, in addition to the Purchase Price, all fees and expenses in respect of all necessary applications with Tarion and any other deposit insurer or excess deposit insurer, any land transfer taxes, including without limitation, if applicable, non-resident speculation tax, in each case payable on the transfer of the Purchased Assets, all registration taxes, fees and other costs payable in respect of registration of any documents to be registered by the Purchaser at Closing and all federal and provincial sales and other taxes payable upon or in connection with the conveyance or transfer of the Purchased Assets, including HST. This Section 9.2 shall survive the Closing or the termination of this Agreement.

Section 9.3 Third Party Beneficiaries.

Each party hereto intends that (except as expressly contemplated herein) this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties hereto and their successors and permitted assigns, and no person, other than the parties hereto and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

Section 9.4 Construction Receiver's Capacity.

The Purchaser acknowledges and agrees that in all matters pertaining to the Sale Process, this Agreement, including in its execution, Alvarez & Marsal Canada Inc. has acted and is acting solely in its capacity as court-appointed receiver and manager and construction lien trustee of all of the assets, undertaking and properties of the Debtors pursuant to the Appointment Order and not in its personal, corporate, or any other capacity and the Construction Receiver and its agents, officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith.

Section 9.5 Construction Receiver's Certificate.

The parties hereto hereby acknowledge and agree that the Construction Receiver shall be entitled to file with the Court a certificate, substantially in the form attached to the Approval and Vesting Order (the "Construction Receiver's Certificate") upon receiving written confirmation from the Purchaser that all conditions to Closing have been satisfied or waived. The Construction Receiver shall have no liability to the Purchaser or any other person as a result of filing the Construction Receiver's Certificate.

Section 9.6 Notices.

Any notice, direction or other instrument required or permitted to be given hereunder shall be in writing and given by delivering or sending it by facsimile or other similar form of communication addressed:

- (a) To the Purchaser at:

Brattys LLP

7501 Keele St #200, Concord, ON, L4K 1Y2

Attention: **Anthony Romanelli**
E-mail: **aromanelli@brattys.com**
Fax: **905-760-2900**

With a copy to:

Skale Developments Inc.

547 Eglinton Ave E., Toronto, ON, M4P 1N7

Attention: **Armaan Salek**
E-mail: **armaan@skale.ca**

- (b) To the Construction Receiver at:

Alvarez and Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, Ontario, M5J 2J1

Attention: **Tony Zaspalis / Ryan Gruneir**
E-mail: **tzaspalis@alvarezandmarsal.com**
rgruneir@alvarezandmarsal.com
Fax: **416-847-5201**

With a copy to:

- 20 -

Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000
Toronto, ON M5L 1A9

Attention: Pamela L.J. Huff / Silvana M. D'Alimonte
E-mail: pamela.huff@blakes.com
smda@blakes.com
Fax: (416) 863-2653

With a copy to:

Cushman & Wakefield Ltd.
161 Bay Street, Suite 1500
Toronto, ON M5J 2S1

Attention: Noah Rechtsman/Dan Rogers
E-mail: noah.rechtsman@cushwake.com
dan.rogers@cushwake.com
Fax:

Any such notice, direction or other instrument given as aforesaid shall be deemed to have been effectively given if sent by facsimile or other similar form of telecommunications, on the next Business Day following such transmission or, if delivered, to have been received on the date of such delivery. Either party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to the party at its changed address.

Section 9.7 Further Assurances.

Each of the parties hereto, upon the request of another party hereto, up until the Closing Date, shall make or cause to be made all such further acts, deeds and assurances, as may be reasonably necessary to more effectually implement the transactions contemplated by this Agreement.

Section 9.8 Enurement.

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

Section 9.9 Assignment.

This Agreement shall not be assignable in whole or in part by the Purchaser without the written consent of the Construction Receiver, which consent may be unreasonably withheld. Notwithstanding the foregoing, the Purchaser shall be entitled to assign its interest in this Agreement to an affiliate (as defined in the *Business Corporations Act* (Ontario)) of the Purchaser without the consent of the Construction Receiver, provided that such affiliate enters into an assumption agreement, in form and substance acceptable to the Construction Receiver,

- 21 -

acting reasonably, in favour of the Construction Receiver assuming all of the liabilities and obligations of the Purchaser under this Agreement and the Confidentiality Agreement, but the Purchaser shall not be released from its obligations hereunder from and after such assignment until Closing has occurred.

Section 9.10 Time of the Essence.

Time shall be of the essence of this Agreement.

Section 9.11 Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument. Each counterpart may be delivered by way of facsimile or via e-mail including by way of pdf.

Section 9.12 Risk of Loss.

In the event of substantial damage to the Purchased Assets, the Purchaser shall still be obligated to complete the purchase hereunder, and the Construction Receiver shall be entitled to any proceeds of insurance.

Section 9.13 Communications Plan; Public Announcements; Confidentiality.

Except as disclosure is required by applicable law or in order to obtain the Approval and Vesting Order, any public announcement or similar publicity with respect to this Agreement or the contemplated transactions will be issued, if at all, at such time and in such manner as the Construction Receiver and the Purchaser shall mutually agree, acting reasonably. The Construction Receiver and the Purchaser shall develop in good faith a mutually agreeable plan for the method and content of the disclosure of the transactions contemplated by this Agreement to their respective employees, customers and suppliers and others having dealings with the parties (the "**Communications Plan**").

The parties shall include as part of the Communications Plan a mutually agreeable release which shall announce the Closing of the contemplated transaction (the "**Public Announcement**"), which Public Announcement shall be finalized by the parties within a reasonable period of time prior to the date established in the Communications Plan for disclosure of the contemplated transaction and may be released by the parties at any time thereafter. The obligations and liabilities contained herein shall survive Closing or the earlier termination of this Agreement.

Section 9.14 Planning Act.

The Construction Receiver and the Purchaser hereby confirm and agree that this Agreement and the transactions reflected herein are subject to compliance with section 50 of the *Planning Act* (Ontario).

Section 9.15 Non-Merger.

None of the provisions of this Agreement or of any agreements, instruments, certificates or other documents contemplated to be executed and delivered pursuant to this Agreement shall merge on Closing and all of the provisions of this Agreement and of such agreements, instruments, certificates or other documents shall survive and shall continue in full force and effect from and after the Closing Date, except as specifically limited pursuant to Section 3.3(1) and Section 4.3.

Section 9.16 Dispute Resolution.

The parties hereto hereby irrevocably submit to the exclusive jurisdiction of the Court over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby and each party hereby irrevocably agrees that all claims in respect of such dispute or any suit, action or proceeding related thereto shall be brought within the proceedings commenced in connection with the appointment of the Construction Receiver to be heard and determined by way of summary adjudication in such proceedings or any of the competent Ontario courts taking appeals therefrom. Notwithstanding the foregoing, each of the parties hereto confirms that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 9.17 Entire Agreement and Modification.

This Agreement supersedes all prior agreements between the parties with respect to its subject matter and constitutes (along with the Confidentiality Agreement and the documents delivered pursuant to this Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may not be amended, supplemented or otherwise modified except in a written document executed by the party against whose interest the modification will operate.

Section 9.18 Solicitors as Agents.

Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated by this Agreement may be given or delivered and accepted or received by the Purchaser's solicitors on behalf of the Purchaser and by the Construction Receiver's solicitors on behalf of the Construction Receiver and any tender of closing documents and/or funds to be delivered under this Agreement may be made upon the Construction Receiver's solicitors and the Purchaser's solicitors, as the case may be.

Section 9.19 Tender.

Any tender of documents or money (including the payment of the Deposit) shall be made upon the party being tendered or upon its solicitors and money shall be tendered by wire transfer of immediately available funds from any of the five largest Canadian Schedule I chartered banks. It is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been made by either party (the "Tendering Party") upon the other party (the "Receiving Party") when the solicitor for the Tendering Party has completed, in addition to all other requirements to effect a valid tender in accordance with the provisions of this Agreement, all steps required by electronic registration in order to complete this transaction that can be

- 23 -

performed or undertaken by the Tendering Party's solicitor without the cooperation or participation of the Receiving Party's solicitor, and specifically when the Tendering Party's solicitor has, where possible, electronically "signed" the instruments to be registered against title to the Real Property at the time of the Closing for completeness and granted "access" to the Receiving Party's solicitor.

Section 9.20 No Registration of Agreement

The Purchaser shall not register or cause to be registered this Agreement or any notice of this Agreement on title to the Real Property or any part thereof. If the Purchaser otherwise registers this Agreement or any notice of this Agreement against title to the Real Property in contravention of this Section, the Purchaser agrees that the Construction Receiver shall be entitled to mandatory injunctive relief to cause the removal of such registration.

Section 9.21 Broker's Fees.

Except for the retention of Cushman & Wakefield by the Construction Receiver, neither party has retained any investment banker, broker, agent, finder or other person, or incurred any obligation for brokerage fees, finder's fees or commissions, with respect to the sale of the Purchased Assets. Each party shall indemnify and hold harmless the other party against any liability, damage, cost or expense involving a finder's or broker's fee payable or alleged to be payable to any broker, agent or other intermediary who purports to act or have acted for such party. Any expenses or fees due to Cushman & Wakefield shall be borne by the Construction Receiver pursuant to separate agreement. The obligations and liabilities contained herein shall survive Closing or the earlier termination of this Agreement.

Section 9.22 Authorizations.

The Construction Receiver shall deliver to the Purchaser, as soon as reasonably possible and in any event within three (3) Business Days after being requested by the Purchaser, written authorizations addressed to governmental authorities in such form as may be provided by the Purchaser necessary to permit the Purchaser to obtain information from the files of such governmental authorities with respect to the Real Property, provided that such authorizations shall expressly prohibit any inspections with respect to the Real Property.

Section 9.23 Offer.

This offer, as it may be amended as part of the Sale Process, shall be irrevocable by the Purchaser until 5:00 p.m. on the tenth Business Day after the Construction Receiver is to have selected the successful bidder in accordance with the timeline set out by the Construction Receiver by written notice or electronic transmission via e-mail delivered to the Purchaser by either the Construction Receiver or Cushman & Wakefield (on the Construction Receiver's behalf), after which time, if not accepted, this offer shall be null and void.

- 24 -

IN WITNESS WHEREOF the Purchaser has executed this offer this 23rd day
of June, 2017.

2583510 Ontario Inc.

By: AS
Name: Armaan Salek
Title: President

By: _____
Name: _____
Title: _____
I/We have authority to bind the Corporation

The Construction Receiver accepts the above offer and agrees to carry it out in accordance with its terms.

ALVAREZ & MARSAL CANADA INC., solely in its capacity as court-appointed receiver and manager and construction lien trustee of all of the assets, undertaking and properties of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc., without personal or corporate liability

By: AM
Name: William Marsal
Title: PRESIDENT

I have authority to bind the Corporation

Index of Schedules

Schedule "A"	Legal Description of the Real Property
Schedule "B"	Permitted Liens
Schedule "C"	Existing Letters of Credit
Schedule "D"	Form of General Conveyance
Schedule "E"	Form of Approval and Vesting Order
Schedule "F"	Reservation of rights-of-way and easements to be attached to Transfer(s)/Deed(s)
Schedule "G"	Restrictive Covenants to be attached to the Transfer(s)/Deed(s)

SCHEDULE "A"**LEGAL DESCRIPTION OF THE REAL PROPERTY****1. Registered Owner: Urbancorp (Leslieville) Developments Inc.****PIN 21024-0455 (LT):**

PART OF LOT 66 & 67 PLAN 481E DESIGNATED AS PART 1 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0456 (LT):

PART OF LOTS 8 & 9 PLAN 504 (MIDWAY) DESIGNATED AS PART 2 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0492 (LT):

PT LTS 5, 6 & 7 PLAN 504 BEING PT 35 PL 66R27603 AND PT LT 5 PL 504 BEING PT 2 PL 66R27625; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504 & PT LT 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 2 PL 66R27625 IN FAVOUR OF PT LT 4 PL 504 AS IN AT3690147; CITY OF TORONTO

PIN 21024-0494 (LT):

PT LT 69 PL 481E BEING PTS 16 & 18 PL 66R27603; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504, PT LTS 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 18 PL 66R27603 IN FAVOUR OF PT LT 70 PL 481E AS IN ET127629; CITY OF TORONTO

**2. Registered Owners: Urbancorp (Leslieville) Developments Inc. (99.999%)
Urbancorp (The Beach) Developments Inc. (0.001%)**

PIN 21024-0457 (LT):

PART OF LOTS 8 & 9 PLAN 504 (MIDWAY) DESIGNATED AS PART 3 PLAN 66R27603 TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO, DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0469 (LT):

PART OF LOT 66 PLAN 481E DESIGNATED AS PART 15 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO, DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0491 (LT):

PT LTS 5, 6 & 7 PLAN 504 BEING PT 36 PL 66R27603 AND PT LT 5 PLAN 504 BEING PT 1 PL 66R27625; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504 & PT LT 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 1 PL 66R27625 IN FAVOUR OF PT LT 4 PL 504 AS IN AT3690147; CITY OF TORONTO

PIN 21024-0493 (LT):

PT LTS 68 & 69 PL 481E BEING PT 17 PL 66R27603; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504, PT LTS 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; CITY OF TORONTO

SCHEDULE "B"**PERMITTED LIENS**

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT), 21024-0469(LT), 21024-0491(LT), 21024-0492(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT3106430 registered on August 21, 2012, being a Notice (City of Toronto and Urbancorp (Leslieville) Developments Inc.)
2. Instrument No. AT3604533 registered on June 11, 2014, being a By-Law (City of Toronto)
3. Instrument No. AT3673934 registered on August 28, 2014, being an Application to Annex Restrictive Covenants (Urbancorp (Leslieville) Developments Inc.)

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT) and 21024-0469(LT)

1. Instrument No. AT3689468 registered on September 16, 2014, being a Plan Correction (Assistant Examiner of Surveys)

PINs 21024-0491(LT) and 21024-0492(LT)

1. Instrument No. AT3690147, being an Easement as in the thumbnail description.

PIN 21024-0494(LT)

1. Instrument No. ET127629, being an Easement as in the thumbnail description.

Schedule C
Summary of Letters of Credit Issued by CIBC - Urbancorp (The Beach) Developments Inc.
As at June 23, 2017

L/C #	Amount	Beneficiary
1 SBT753729	16,324.00	City of Toronto, Corporate Finance Division, Treasury Services
2 SBT753111	25,750.07	Toronto Hydro Electric System Limited
3 SBT753119	830,000.00	Treasurer of the City of Toronto
Sub-total	<u>872,074.07</u>	

SCHEDULE "D"

FORM OF GENERAL CONVEYANCE

GENERAL CONVEYANCE AND ASSUMPTION AGREEMENT

General Conveyance dated _____, 2017 between Alvarez & Marsal Canada Inc., solely in its capacity as court-appointed receiver and manager and construction lien trustee of all of the assets, undertaking and properties of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc., without personal or corporate liability (the "Construction Receiver") and 2583510 Ontario Inc. (the "Purchaser").

RECITALS:

- (a) Pursuant to an agreement of purchase and sale dated _____, 2017 (the "Purchase Agreement") between the Construction Receiver and the Purchaser, the Construction Receiver has agreed to sell, transfer and assign to the Purchaser and the Purchaser has agreed to purchase from the Construction Receiver all of the Debtors' right, title and interest, if any, in and to the Purchased Assets for the consideration and upon and subject to the terms and conditions set forth therein; and
- (b) Contemporaneously with the purchase of the Purchased Assets, the Purchaser has agreed to assume, discharge, perform and fulfil, with respect to the Purchased Assets, the obligations and liabilities of the Construction Receiver and the Debtors, as more particularly set out herein.

In consideration of the foregoing and the mutual agreements contained herein (the receipt and adequacy of which are acknowledged), the parties agree as follows:

Section 1 Defined Terms.

Capitalized terms used in this agreement and not otherwise defined herein shall have the meanings specified in the Purchase Agreement.

Section 2 Conveyance of Assets.

The Construction Receiver hereby sells, assigns, conveys and transfers to the Purchaser the Purchased Assets and all right, title and interest of the Debtors, if any, in and to the Purchased Assets, effective as of the Closing. The Purchaser acknowledges and agrees that the Debtors' right, title and interest, if any, in and to the Purchased Assets are being purchased on an "as is, where is" basis in accordance with Sections 2.2, 2.3, 2.4, 2.5 and 2.6 of the Purchase Agreement.

Section 3 Assumption of Obligations.

The Purchaser assumes and will perform, discharge and fulfil, with respect to the Purchased Assets, (a) the obligations and liabilities of the Debtors and the Construction Receiver under the Permitted Liens, the Municipal Agreements and the Permits as and from 12:01 a.m. (Toronto

time) on the Closing Date, that accrue before and after the Closing Date and (b) all other obligations and liabilities the Purchaser has agreed to expressly assume pursuant to the terms of the Purchase Agreement.

Section 4 Indemnity.

The Purchaser hereby indemnifies and holds the Construction Receiver and the Debtors harmless and will reimburse and compensate the Construction Receiver and the Debtors for any loss, liability, claim, demand, interest, fine, penalty, assessment, damages available at law or in equity, expense or diminution in value arising from, in connection with or related in any manner whatsoever to, the Purchaser's failure to fulfil its obligations pursuant to Section 3 of this agreement.

Section 5 Subject to Purchase Agreement.

This agreement is subject to the terms and conditions of the Purchase Agreement. In the event of any conflict or inconsistency between the provisions of this agreement and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall prevail.

Section 6 Binding Nature.

This agreement shall enure to the benefit of and be binding upon the Purchaser and the Construction Receiver and their respective successors and assigns.

Section 7 Governing Law.

This agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Section 8 Counterparts.

This agreement may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument. Each counterpart may be delivered by way of facsimile or via e-mail including by way of pdf.

IN WITNESS WHEREOF the parties have executed this General Conveyance Agreement.

ALVAREZ & MARSAL CANADA INC., solely in its capacity as court-appointed receiver and manager and construction lien trustee of all of the assets, undertaking and properties of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc., without personal or corporate liability

By:
Name: D. M. ...
Title: President

2583510 Ontario Inc.

By:
Name: Armaan Salek
Title: Authorized Signing Officer

SCHEDULE "E"
FORM OF APPROVAL AND VESTING ORDER

See attached

DRAFT

Court File No. CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	•, THE •
)	
•)	DAY OF •, 2017

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990,
c. C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

**APPROVAL AND VESTING ORDER
(RE: BEACH PROJECT)**

THIS MOTION, made by Alvarez & Marsal Canada Inc. (“A&M”), in its capacity as receiver and manager (in such capacity, the “**Receiver**”), pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (“**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended, and in its capacity as construction lien trustee (in such capacity, the “**Construction Lien Trustee**”), pursuant to section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (“**CLA**”) (the Receiver, together with the Construction Lien Trustee, the “**Construction Receiver**”), of all of the assets, undertakings, and property acquired for, or used in relation to the business, including all proceeds thereof (the “**Property**”) of Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), and Urbancorp (The Beach) Developments Inc. (“**UC Beach**”, together UC Leslieville, the “**Debtors**”), for an

- 2 -

order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Construction Receiver and [NAME OF PURCHASER] (the "**Purchaser**") dated [DATE] and appended to the Report of the Construction Receiver dated [DATE] (the "**Report**"), and vesting in the Purchaser each of the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report, considering the Order of the Honourable Mr. Justice Newbould dated May 2, 2017 (the "**Beach Project Order**"), which approved, among other things, the repudiation by the Construction Receiver of each and every Original Beach APS, and declared that all Existing Beach Purchasers and Beach Assignors have no right, title, interest, claim or recourse as against any of the Property of the Debtors, and on hearing the submissions of counsel for the Construction Receiver, [NAMES OF OTHER PARTIES APPEARING], and counsel on the counsel slip, attached, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed:

1. Capitalized terms not defined herein shall have the meaning given to them in the Beach Project Order.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Construction Receiver is hereby authorized and approved, with such minor amendments as the Construction Receiver may deem necessary. The Construction Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Construction Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Construction Receiver's Certificate**"), each of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement, which includes the real property identified on **Schedule B** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims (including,

- 3 -

without limitation, the claims of all Existing Beach Purchasers and Beach Assignors), whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, encumbrances, title retention agreements, each and every Original Beach APS, judgments, adverse claims or interests, exceptions, reservations, easements, encroachments, servitudes, restrictions on use, any right of occupancy, any matter capable of registration against title, options, rights of first refusal or similar rights, rights of pre-emption or privilege or any contract creating any of the foregoing (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Newbould dated May 31, 2016, as amended from time to time, and Order of the Honourable Mr. Justice Newbould dated May 2, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule C** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Toronto Land Registry Office (No. 66) of a Transfer(s)/Deed(s) of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Construction Receiver, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Real Property identified in **Schedule B** hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule C** hereto.

5. THIS COURT ORDERS that, subject to paragraph 8 of the Beach Project Order which authorizes the Construction Receiver to retain the Construction Receiver's Reserve and the Beach Holdback Reserve, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Construction Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior

- 4 -

to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. THIS COURT ORDERS AND DIRECTS the Construction Receiver to file with the Court a copy of the Construction Receiver's Certificate, forthwith after delivery thereof.

7. THIS COURT ORDERS that the Construction Receiver may rely on written notice from the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Construction Receiver's Certificate.

8. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of each Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of each Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy appointed in respect of each Debtor and shall not be void or voidable by creditors of each Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Construction Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Construction

- 5 -

Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Construction Receiver and its agents in carrying out the terms of this Order.

DRAFT

Schedule A – Form of Construction Receiver's Certificate

Court File No. CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (the "**Court**") dated May 31, 2016, as amended, Alvarez & Marsal Canada Inc. was appointed as the receiver and manager (the "**Receiver**") and construction lien trustee (the "**Construction Lien Trustee**", together with the Receiver, the "**Construction Receiver**") of the undertaking, property and assets of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc. (the "**Debtors**").

B. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Court dated May 2, 2017, the Court approved, among other things, the repudiation by the Construction Receiver of each and every Original Beach APS, and declared that all Existing Beach Purchasers and Beach Assignors shall have no right, title, interest, claim or recourse as against any of the Property of the Debtors.

C. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "**Sale Agreement**") between the Construction Receiver and [NAME OF PURCHASER] (the "**Purchaser**") and provided for the vesting in the Purchaser of each Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the

- 2 -

Construction Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Articles 5 and 6 of the Sale Agreement have been satisfied or waived by the Construction Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Construction Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE CONSTRUCTION RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Construction Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Articles 5 and 6 of the Sale Agreement have been satisfied or waived by the Construction Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Construction Receiver.
4. This Certificate was delivered by the Construction Receiver at _____ [TIME] on _____ [DATE].

Alvarez & Marsal Canada Inc., in its capacity as Construction Receiver of the undertaking, property and assets of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc., and not in its personal capacity or corporate capacity

Per: _____

Name:

Title:

Schedule B – Real Property

1. Registered Owner: Urbancorp (Leslieville) Developments Inc.

PIN 21024-0455 (LT):

PART OF LOT 66 & 67 PLAN 481E DESIGNATED AS PART 1 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0456 (LT):

PART OF LOTS 8 & 9 PLAN 504 (MIDWAY) DESIGNATED AS PART 2 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0492 (LT):

PT LTS 5, 6 & 7 PLAN 504 BEING PT 35 PL 66R27603 AND PT LT 5 PL 504 BEING PT 2 PL 66R27625; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504 & PT LT 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 2 PL 66R27625 IN FAVOUR OF PT LT 4 PL 504 AS IN AT3690147; CITY OF TORONTO

PIN 21024-0494 (LT):

PT LT 69 PL 481E BEING PTS 16 & 18 PL 66R27603; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504, PT LTS 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 18 PL 66R27603 IN FAVOUR OF PT LT 70 PL 481E AS IN ET127629; CITY OF TORONTO

**2. Registered Owners: Urbancorp (Leslieville) Developments Inc. (99.999%)
Urbancorp (The Beach) Developments Inc. (0.001%)**

PIN 21024-0457 (LT):

PART OF LOTS 8 & 9 PLAN 504 (MIDWAY) DESIGNATED AS PART 3 PLAN 66R27603 TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO, DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0469 (LT):

PART OF LOT 66 PLAN 481E DESIGNATED AS PART 15 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO, DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0491 (LT):

PT LTS 5, 6 & 7 PLAN 504 BEING PT 36 PL 66R27603 AND PT LT 5 PLAN 504 BEING PT 1 PL 66R27625; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504 & PT LT 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 1 PL 66R27625 IN FAVOUR OF PT LT 5 PL 504 AS IN AT3690147; CITY OF TORONTO

PIN 21024-0493 (LT):

PT LTS 68 & 69 PL 481E BEING PT 17 PL 66R27603; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504, PT LTS 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; CITY OF TORONTO

Schedule C – Claims to be deleted and expunged from title to Real Property

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT), 21024-0469(LT), 21024-0491(LT), 21024-0492(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT3081811 registered on July 24, 2012, being a Charge in favour of Canadian Imperial Bank of Commerce
2. Instrument No. AT3106431 registered on August 21, 2012, being Postponement (Canadian Imperial Bank of Commerce to City of Toronto)
3. Instrument No. AT3954373 registered on July 22, 2015, being a Notice of Assignment of Rents – General in favour of Terra Firma Capital Corporation
4. Instrument No. AT4066190 registered on November 13, 2015, being a Construction Lien in favour of Furkin Construction Inc.
5. Instrument No. AT4102182 registered on December 22, 2015, being a Certificate of Action (Furkin Construction Inc.)
6. Instrument No. AT4153436 registered on February 25, 2016, being a Construction Lien in favour of Silvio Construction Co. Ltd.
7. Instrument No. AT4166072 registered on March 11, 2016, being a Construction Lien in favour of Ng Marin Inc.
8. Instrument No. AT4181438 registered on March 31, 2016, being a Certificate of Action (Silvio Construction Co. Ltd.)
9. Instrument No. AT4198082 registered on April 20, 2016, being a Construction Lien in favour of Lido Construction Inc.
10. Instrument No. AT4210320 registered on May 3, 2016, being a Construction Lien in favour of 207875 Ontario Limited Operating as Canadian Rental Centres
11. Instrument No. AT4210969 registered on May 4, 2016, being a Certificate of Action (Ng Marin Inc.)
12. Instrument No. AT4243741 registered on June 10, 2016, being an Application to Register Court Order (Ontario Superior Court of Justice Commercial List and Alvarez & Marsal Canada Inc.)
13. Instrument No. AT4250965 registered on June 17, 2016, being a Certificate of Action (207875 Ontario Limited)
14. Instrument No. AT4277318 registered on July 13, 2016, being a Certificate of Action (Lido Construction Inc.)
15. Together with such further Claims as may arise and/or be registered against title to the Real Property up to and including the time of Closing of the transaction (as set out in more detail by way of solicitor's statement or affidavit annexed to the Transfer/Deed).

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT) and 21024-0469(LT)

1. Instrument No. AT3601546 registered on June 6, 2014, being a Postponement (Canadian Imperial Bank of Commerce to City of Toronto)
2. Instrument No. AT3601547 registered on June 6, 2014, being a Postponement (Mattamy (Downsview) Limited to City of Toronto)

PINs 21024-0455(LT), 21024-0457(LT), 21024-0469(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT3954372 registered on July 22, 2015, being a Charge in favour of Terra Firma Capital Corporation

PINs 21024-0456(LT), 21024-0457(LT), 21024-0491(LT), 21024-0492(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT4072928 registered on November 20, 2015, being a Construction Lien in favour of Roni Excavating Limited
2. Instrument No. AT4072965 registered on November 20, 2015, being a Construction Lien in favour of Orin Contractors Corp.
3. Instrument No. AT4106423 registered on December 30, 2015, being a Certificate of Action (Roni Excavating Limited)
4. Instrument No. AT4106505 registered on December 30, 2015, being a Certificate of Action (Orin Contractors Corp.)

PIN 21024-0455(LT)

1. Instrument No. AT4011572 registered on September 17, 2015, being a Construction Lien in favour of Alpa Stairs and Railings Inc.
2. Instrument No. AT4039965 registered on October 19, 2015, being a Certificate of Action (Alpa Stairs and Railings Inc. and Ontario Superior Court of Justice)

PIN 21024-0457(LT)

1. Instrument No. AT4166869 registered on March 14, 2016, being a Construction Lien in favour of Uptown Hardware Limited
1. Instrument No. AT4200072 registered on April 22, 2016, being a Certificate of Action (Uptown Hardware Limited)

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT), 21024-0469(LT), 21024-0491(LT), 21024-0492(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT3106430 registered on August 21, 2012, being a Notice (City of Toronto and Urbancorp (Leslieville) Developments Inc.)
2. Instrument No. AT3604533 registered on June 11, 2014, being a By-Law (City of Toronto)
3. Instrument No. AT3673934 registered on August 28, 2014, being an Application to Annex Restrictive Covenants (Urbancorp (Leslieville) Developments Inc.)

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT) and 21024-0469(LT)

1. Instrument No. AT3689468 registered on September 16, 2014, being a Plan Correction (Assistant Examiner of Surveys)

PINs 21024-0491(LT) and 21024-0492(LT)

1. Instrument No. AT3690147, being an Easement as in the thumbnail description.

PIN 21024-0494(LT)

1. Instrument No. ET127629, being an Easement as in the thumbnail description.

SCHEDULE "F"**RESERVATION OF RIGHTS-OF-WAY AND EASEMENTS****(to be added as a schedule to each Transfer/Deed**

RESERVING unto the Transferor herein for itself, its servants and agents, successors and assigns, the right in the nature of an easement, licence or right-of-way until the later of (a) five (5) years from the date of registration hereof or (b) the assumption of the subdivision and/or until Urbancorp (Leslieville) Developments Inc. and/or Urbancorp (The Beach) Developments Inc. (or its respective successors and assigns) complies with the requirements set out under a Notice of Agreement entered into with the City of Toronto as referred to under Instrument Number AT3106430, to enter upon the lands at any time and from time to time, for the purposes of making inspections, adjustments and/or repairs to grading, drainage, works or services provided by the transferor or developer pursuant to any agreement with any municipality or regional or governmental authority governing the development of the lands herein. The benefit of the easement, licence or right-of-way hereinbefore described shall be annexed to and run with each and every lot and/or block located on Plan 504 (Midway) and/or 481E, registered in the name of the Transferor on the date of the registration of this Transfer.

RESERVING unto the Transferor herein for itself, its servants and agents, successors and assigns, the right until the later of (a) five (5) years from the date of registration hereof or (b) the assumption of the subdivision and/or until Urbancorp (Leslieville) Developments Inc. and/or Urbancorp (The Beach) Developments Inc. (or its respective successors and assigns) complies with the requirements set out under a Notice of Agreement entered into with the City of Toronto, as referred to under Instrument Number AT3106430, to enter upon the lands for the purposes of installing and maintaining any lines, transformers, equipment, or any other apparatus as may be required to supply any utility including hydro, water, gas and telephone services to the lands or any other lands on the said Plan and/or for the purposes of constructing, installing, placing, maintaining, inspecting, repairing, altering, removing and replacing works for noise attenuation purposes including walls and structures, plants, trees, shrubs and other vegetation and landscaping for the lands or any other lands on the said Plan. The Transferee by acceptance of this transfer covenants on his own behalf and on behalf of his heirs, executors, administrators, successors and assigns to i) grant such temporary licences, easements or rights-of-way as may be required to give effect to the foregoing and ii) grant such permanent licences, easements or rights-of-way as may be required by the City of Toronto. The benefit of the easement, licence or right-of-way hereinbefore described shall be annexed to and run with each and every lot and/or block located on Plan 504 (Midway) and/or 481E, registered in the name of the Transferor on the date of the registration of this Transfer.

SCHEDULE "G"

RESTRICTIVE COVENANTS

The burden of each of the covenants hereinafter set out shall run with each and every property in the proposed development until the 50th anniversary of the date of the registration (being August 28, 2014 as Instrument No. AT3673934) of these covenants on title; the Owner for itself, its successors and assigns covenants that the Owner and the Owner's successors in title from time to time of all or any part or parts of the said lands, will observe and comply with the stipulations, restrictions, provisions and covenants set forth below, namely:

- i) All Owners hereby irrevocably covenant and agree to abide by and observe each and every one of the covenants and restrictions set out in this Schedule and, further, in the event of the sale of the lot and house by the Owner, the deed from the Owner for the home shall contain a copy of this Schedule of Restrictive Covenants.
- ii) No changes to the exterior finishes of the Dwelling in any manner whatsoever are permitted, including, but not limited to, roofing shingles, vents to roof and walls, soffit, fascia, eavestroughing, siding and trim, windows, exterior doors, stone veneer, decks, privacy screens and railings. In the event of maintenance to or replacement being required of any of the exterior finishes, the owner(s) undertake(s) not to use building materials which are not the same or as close as possible to the as-constructed materials with regard to colour, shape, size and texture.
- iii) Owners shall not change, maintain or replace any exterior finishes of the dwelling unless and until they have co-ordinated such with all other owners of the building of which the dwelling forms part; so as to ensure uniform colour, texture shape and size to the finishes of the entire building at all times.
- iv) The Owner shall not, without the prior written authority of the municipality (which may be arbitrarily withheld), interfere with or alter any above or below ground drainage, catch basin or storm water management system or lead, or obstruct the natural flow of water, or obstruct the drainage as designed and engineered to any of adjoining lands. No owner shall alter the grading or change the elevation or contour of the subject lands except in accordance with drainage and grading plans approved by the municipal public works department. No owner shall alter the overall drainage patterns of the subject lands' water drainage upon the subject lands or to and from adjoining lands, and each owner agrees to grant and shall not refuse to grant such easements as may be required from time to time by the owner of adjoining lands for drainage purposes.
- v) No alteration of the grading or drainage pattern of the subject lands or any part thereof shall be made and no construction or installation of any fences (including shrubbery), gates, pools, patios, sheds or similar structures shall be made prior to the final grading approval of the Municipality without the consent of the developer (or successor developer). The Owner shall not fail to repair minor settlement of the subject lands, or to care for sod, shrubs and other landscaping, if any, provided by the developer (or

successor developer), its contractors and subcontractors, or to replace any of it that dies from time to time.

- vi) Notwithstanding anything contained herein, the developer (or successor developer) shall have the right, by instrument in writing, from time to time to waive, alter or modify the covenants, provisions and restrictions contained herein with respect to all or any part of the Lands hereinbefore described, without notice to, or the consent of any transferee or owner.
- vii) The owner shall not breach any provision contained in any agreement registered on title to the lands with any governmental or administrative authority as it relates to the subject lands, the buildings constructed thereon, or the grading with respect thereto.
- viii) Each of these covenants and restrictions shall be deemed independent and severable in whole or in part and the invalidity or unenforceability of any one covenant or restriction or any portion thereof shall not affect the validity or enforceability of any other covenant or restriction or remaining portion thereof.

The burden of these covenants and restrictions shall run with the subject lands and the benefit of these covenants and restrictions may be annexed to and run with each and every lot, part lot and/or block located on Plan 66R-27603, registered in the name of Urbancorp (Leslieville) Developments Inc. and/or Urbancorp (The Beach) Developments Inc. on the date of registration of Restrictive Covenants No. AT3673934. All owners, their respective successors and assigns, in title, from time to time of the adjoining lands, shall keep, observe, perform and comply with the stipulations, provisions and covenants set forth herein.

TAB 3

Court File No. CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	MONDAY, THE 17 th
)	
JUSTICE MYERS)	DAY OF JULY, 2017

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990,
c. C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

**APPROVAL AND VESTING ORDER
(RE: BEACH LOTS)**

THIS MOTION, made by Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as receiver and manager (in such capacity, the “**Receiver**”), pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (“**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended, and in its capacity as construction lien trustee (in such capacity, the “**Construction Lien Trustee**”), pursuant to section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (“**CLA**”) (the Receiver, together with the Construction Lien Trustee, the “**Construction Receiver**”), of all of the assets, undertakings, and property acquired for, or used in relation to the business, including all proceeds thereof (the “**Property**”) of Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), and Urbancorp

(The Beach) Developments Inc. (“**UC Beach**”, together UC Leslieville, the “**Debtors**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Construction Receiver and 2583510 Ontario Inc. (the “**Purchaser**”) dated June 23, 2017 and appended to the Report of the Construction Receiver dated July 5, 2017 (the “**Report**”), and vesting in the Purchaser each of the Debtors’ right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report, considering the Order of the Honourable Mr. Justice Newbould dated May 2, 2017 (the “**Beach Project Order**”), which approved, among other things, the repudiation by the Construction Receiver of each and every Original Beach APS, and declared that all Existing Beach Purchasers and Beach Assignors have no right, title, interest, claim or recourse as against any of the Property of the Debtors, and on hearing the submissions of counsel for the Construction Receiver, [NAMES OF OTHER PARTIES APPEARING], and counsel on the counsel slip, attached, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed:

1. Capitalized terms not defined herein shall have the meaning given to them in the Beach Project Order.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Construction Receiver is hereby authorized and approved, with such minor amendments as the Construction Receiver may deem necessary. The Construction Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Construction Receiver’s certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the “**Construction Receiver's Certificate**”), each of the Debtors’ right, title and interest in and to the Purchased Assets described in the Sale Agreement, which includes the real property identified on **Schedule B** hereto (the “**Real Property**”), shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or

otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims (including, without limitation, the claims of all Existing Beach Purchasers and Beach Assignors), whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, encumbrances, title retention agreements, each and every Original Beach APS, judgments, adverse claims or interests, exceptions, reservations, easements, encroachments, servitudes, restrictions on use, any right of occupancy, any matter capable of registration against title, options, rights of first refusal or similar rights, rights of pre-emption or privilege or any contract creating any of the foregoing (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Newbould dated May 31, 2016, as amended from time to time, and Order of the Honourable Mr. Justice Newbould dated May 2, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule C** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Toronto Land Registry Office (No. 66) of a Transfer(s)/Deed(s) of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Construction Receiver, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Real Property identified in **Schedule B** hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule C** hereto.

5. **THIS COURT ORDERS** that, subject to paragraph 8 of the Beach Project Order which authorizes the Construction Receiver to retain the Construction Receiver's Reserve and the Beach Holdback Reserve, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Construction Receiver's Certificate

all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Construction Receiver to file with the Court a copy of the Construction Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that the Construction Receiver may rely on written notice from the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Construction Receiver's Certificate.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of each Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of each Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy appointed in respect of each Debtor and shall not be void or voidable by creditors of each Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Construction Receiver and its agents in carrying out the

terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Construction Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Construction Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Construction Receiver’s Certificate

Court File No. CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
URBANCORP (THE BEACH) DEVELOPMENTS INC.**

Respondents

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (the "**Court**") dated May 31, 2016, as amended, Alvarez & Marsal Canada Inc. was appointed as the receiver and manager (the "**Receiver**") and construction lien trustee (the "**Construction Lien Trustee**", together with the Receiver, the "**Construction Receiver**") of the undertaking, property and assets of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc. (the "**Debtors**").

B. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Court dated May 2, 2017, the Court approved, among other things, the repudiation by the Construction Receiver of each and every Original Beach APS, and declared that all Existing Beach Purchasers and Beach Assignors shall have no right, title, interest, claim or recourse as against any of the Property of the Debtors.

C. Pursuant to an Order of the Court dated July 17, 2017, the Court approved the agreement of purchase and sale made as of June 23, 2017 (the "**Sale Agreement**") between the Construction Receiver and 2583510 Ontario Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of each Debtor’s right, title and interest in and to the Purchased Assets, which vesting

is to be effective with respect to the Purchased Assets upon the delivery by the Construction Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Articles 5 and 6 of the Sale Agreement have been satisfied or waived by the Construction Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Construction Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE CONSTRUCTION RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Construction Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Articles 5 and 6 of the Sale Agreement have been satisfied or waived by the Construction Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Construction Receiver.
4. This Certificate was delivered by the Construction Receiver at _____ [TIME] on _____ [DATE].

Alvarez & Marsal Canada Inc., in its capacity as Construction Receiver of the undertaking, property and assets of Urbancorp (Leslieville) Developments Inc. and Urbancorp (The Beach) Developments Inc., and not in its personal capacity or corporate capacity

Per: _____
 Name:
 Title:

Schedule B – Real Property

1. **Registered Owner: Urbancorp (Leslieville) Developments Inc.**

PIN 21024-0455 (LT):

PART OF LOT 66 & 67 PLAN 481E DESIGNATED AS PART 1 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0456 (LT):

PART OF LOTS 8 & 9 PLAN 504 (MIDWAY) DESIGNATED AS PART 2 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0492 (LT):

PT LTS 5, 6 & 7 PLAN 504 BEING PT 35 PL 66R27603 AND PT LT 5 PL 504 BEING PT 2 PL 66R27625; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504 & PT LT 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 2 PL 66R27625 IN FAVOUR OF PT LT 4 PL 504 AS IN AT3690147; CITY OF TORONTO

PIN 21024-0494 (LT):

PT LT 69 PL 481E BEING PTS 16 & 18 PL 66R27603; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504, PT LTS 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 18 PL 66R27603 IN FAVOUR OF PT LT 70 PL 481E AS IN ET127629; CITY OF TORONTO

2. **Registered Owners: Urbancorp (Leslieville) Developments Inc. (99.999%) Urbancorp (The Beach) Developments Inc. (0.001%)**

PIN 21024-0457 (LT):

PART OF LOTS 8 & 9 PLAN 504 (MIDWAY) DESIGNATED AS PART 3 PLAN 66R27603 TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO, DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0469 (LT):

PART OF LOT 66 PLAN 481E DESIGNATED AS PART 15 PLAN 66R27603; TOGETHER WITH AN EASEMENT OVER PART OF LOTS 7 AND 8 PL 504 (MIDWAY) AND PART OF LOTS 67 AND 68, PLAN 481E, TORONTO, DESIGNATED AS PART 3 ON PLAN 66R26973 UNTIL SUCH TIME AS SAID PART 3 IS DEDICATED AS PUBLIC HIGHWAY AS IN AT3535638; CITY OF TORONTO

PIN 21024-0491 (LT):

PT LTS 5, 6 & 7 PLAN 504 BEING PT 36 PL 66R27603 AND PT LT 5 PLAN 504 BEING PT 1 PL 66R27625; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504 & PT LT 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; SUBJECT TO AN EASEMENT OVER PT 1 PL 66R27625 IN FAVOUR OF PT LT 4 PL 504 AS IN AT3690147; CITY OF TORONTO

PIN 21024-0493 (LT):

PT LTS 68 & 69 PL 481E BEING PT 17 PL 66R27603; TOGETHER WITH AN EASEMENT OVER PT LTS 7 & 8 PL 504, PT LTS 67 & 68 PL 481E PT 3 PL 66R26973 AS IN AT3535638; TOGETHER WITH AN EASEMENT OVER PT LT 70 PL 481E PT 3 PL 66R25512 AS IN ET127629; CITY OF TORONTO

Schedule C – Claims to be deleted and expunged from title to Real Property**PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT), 21024-0469(LT), 21024-0491(LT), 21024-0492(LT), 21024-0493(LT) and 21024-0494(LT)**

1. Instrument No. AT3081811 registered on July 24, 2012, being a Charge in favour of Canadian Imperial Bank of Commerce
2. Instrument No. AT3106431 registered on August 21, 2012, being Postponement (Canadian Imperial Bank of Commerce to City of Toronto)
3. Instrument No. AT3954373 registered on July 22, 2015, being a Notice of Assignment of Rents – General in favour of Terra Firma Capital Corporation
4. Instrument No. AT4066190 registered on November 13, 2015, being a Construction Lien in favour of Furkin Construction Inc.
5. Instrument No. AT4102182 registered on December 22, 2015, being a Certificate of Action (Furkin Construction Inc.)
6. Instrument No. AT4153436 registered on February 25, 2016, being a Construction Lien in favour of Silvio Construction Co. Ltd.
7. Instrument No. AT4166072 registered on March 11, 2016, being a Construction Lien in favour of Ng Marin Inc.
8. Instrument No. AT4181438 registered on March 31, 2016, being a Certificate of Acton (Silvio Construction Co. Ltd.)
9. Instrument No. AT4198082 registered on April 20, 2016, being a Construction Lien in favour of Lido Construction Inc.
10. Instrument No. AT4210320 registered on May 3, 2016, being a Construction Lien in favour of 207875 Ontario Limited Operating as Canadian Rental Centres
11. Instrument No. AT4210969 registered on May 4, 2016, being a Certificate of Action (Ng Marin Inc.)
12. Instrument No. AT4243741 registered on June 10, 2016, being an Application to Register Court Order (Ontario Superior Court of Justice Commercial List and Alvarez & Marsal Canada Inc.)
13. Instrument No. AT4250965 registered on June 17, 2016, being a Certificate of Action (207875 Ontario Limited)
14. Instrument No. AT4277318 registered on July 13, 2016, being a Certificate of Action (Lido Construction Inc.)

15. Together with such further Claims as may arise and/or be registered against title to the Real Property up to and including the time of Closing of the transaction (as set out in more detail by way of solicitor's statement or affidavit annexed to the Transfer/Deed).

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT) and 21024-0469(LT)

1. Instrument No. AT3601546 registered on June 6, 2014, being a Postponement (Canadian Imperial Bank of Commerce to City of Toronto)
2. Instrument No. AT3601547 registered on June 6, 2014, being a Postponement (Mattamy (Downsview) Limited to City of Toronto)

PINs 21024-0455(LT), 21024-0457(LT), 21024-0469(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT3954372 registered on July 22, 2015, being a Charge in favour of Terra Firma Capital Corporation

PINs 21024-0456(LT), 21024-0457(LT), 21024-0491(LT), 21024-0492(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT4072928 registered on November 20, 2015, being a Construction Lien in favour of Roni Excavating Limited
2. Instrument No. AT4072965 registered on November 20, 2015, being a Construction Lien in favour of Orin Contractors Corp.
3. Instrument No. AT4106423 registered on December 30, 2015, being a Certificate of Action (Roni Excavating Limited)
4. Instrument No. AT4106505 registered on December 30, 2015, being a Certificate of Action (Orin Contractors Corp.)

PIN 21024-0455(LT)

1. Instrument No. AT4011572 registered on September 17, 2015, being a Construction Lien in favour of Alpa Stairs and Railings Inc.
2. Instrument No. AT4039965 registered on October 19, 2015, being a Certificate of Action (Alpa Stairs and Railings Inc. and Ontario Superior Court of Justice)

PIN 21024-0457(LT)

1. Instrument No. AT4166869 registered on March 14, 2016, being a Construction Lien in favour of Uptown Hardware Limited
2. Instrument No. AT4200072 registered on April 22, 2016, being a Certificate of Action (Uptown Hardware Limited)

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT), 21024-0469(LT), 21024-0491(LT), 21024-0492(LT), 21024-0493(LT) and 21024-0494(LT)

1. Instrument No. AT3106430 registered on August 21, 2012, being a Notice (City of Toronto and Urbancorp (Leslieville) Developments Inc.)
2. Instrument No. AT3604533 registered on June 11, 2014, being a By-Law (City of Toronto)
3. Instrument No. AT3673934 registered on August 28, 2014, being an Application to Annex Restrictive Covenants (Urbancorp (Leslieville) Developments Inc.)

PINs 21024-0455(LT), 21024-0456(LT), 21024-0457(LT) and 21024-0469(LT)

1. Instrument No. AT3689468 registered on September 16, 2014, being a Plan Correction (Assistant Examiner of Surveys)

PINs 21024-0491(LT) and 21024-0492(LT)

1. Instrument No. AT3690147, being an Easement as in the thumbnail description.

PIN 21024-0494(LT)

1. Instrument No. ET127629, being an Easement as in the thumbnail description.

CANADIAN IMPERIAL BANK OF COMMERCE
Applicant

V.

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. et al.
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER
(RE: BEACH LOTS)**

BLAKE, CASSELS & GRAYDON LLP
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Independent Counsel for Alvarez & Marsal Canada Inc.,
in its capacity as both Receiver and Manager, and
Construction Lien Trustee of the assets, undertakings
and property of Urbancorp (Leslieville) Developments
Inc., Urbancorp (Riverdale) Developments Inc., and
Urbancorp (The Beach) Developments Inc.

TAB 4

Court File No. CV-16-11409-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	MONDAY, THE 17 th
)	
JUSTICE MYERS)	DAY OF JULY, 2017

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**URBANCORP (LESLIEVILLE) DEVELOPMENTS INC.,
URBANCORP (RIVERDALE) DEVELOPMENTS INC., &
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Respondents

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, section 68 of the *Construction Lien Act*, R.S.O. 1990,
c. C.30, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

**ANCILLARY ORDER
(to Approval and Vesting Order)**

THIS MOTION, made by Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as receiver and manager (in such capacity, the “**Receiver**”), pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (“**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended, and in its capacity as construction lien trustee (in such capacity, the “**Construction Lien Trustee**”), pursuant to section 68 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (“**CLA**”) (the Receiver, together with the Construction Lien Trustee, the “**Construction Receiver**”), of all of the assets, undertakings, and property acquired for, or used in relation to the business, including all proceeds thereof (the “**Property**”) of Urbancorp (Leslieville) Developments Inc. (“**UC Leslieville**”), and Urbancorp (The Beach) Developments Inc. (“**UC Beach**”, together UC Leslieville, the “**Debtors**”), for an

order ancillary to an approval and vesting granted on this date (the “**Approval and Vesting Order**”) approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Construction Receiver and 2583510 Ontario Inc. (the "**Purchaser**") dated June 23, 2017, and appended to the Report of the Construction Receiver dated July 5, 2017 (the "**Fourth Report**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fourth Report, and on hearing the submissions of counsel for the Construction Receiver, [NAMES OF OTHER PARTIES APPEARING], and counsel on the counsel slip, attached, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed:

DEFINED TERMS

1. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the same meaning as in the Sale Agreement.

SEALING OF CONFIDENTIAL APPENDIX

2. **THIS COURT ORDERS** that, subject to further order of the Court, **Confidential Appendix “A”** to the Fourth Report shall be sealed, kept confidential, and not form part of the public record, but rather be placed, separate and apart from all other contents of the Court file, in a sealed envelope with a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further order of the Court.

3. **THIS COURT ORDERS** that, after the Closing of the Transaction, an unredacted copy of the Sale Agreement will be placed in the Court file such that it forms part of the public record.

APPROVAL OF CONSTRUCTION RECEIVER ACTIVITIES

4. **THIS COURT ORDERS** that the Fourth Report, and the activities of the Construction Receiver described therein, are hereby approved.

CANADIAN IMPERIAL BANK OF COMMERCE
Applicant

V.

URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. et al.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ANCILLARY ORDER
(TO APPROVAL AND VESTING ORDER)**

BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
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Independent Counsel for Alvarez & Marsal Canada Inc.,
in its capacity as both Receiver and Manager, and
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and property of Urbancorp (Leslieville) Developments
Inc., Urbancorp (Riverdale) Developments Inc., and
Urbancorp (The Beach) Developments Inc.

CANADIAN IMPERIAL BANK OF COMMERCE
Applicant

v. **URBANCORP (LESLIEVILLE) DEVELOPMENTS INC. et al.**

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD
(RE: SALE OF BEACH LOTS)
Returnable July 17, 2017**

BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario M5L 1A9

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Inc., Urbancorp (Riverdale) Developments Inc., and
Urbancorp (The Beach) Developments Inc.