

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

2492029 ONTARIO INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) 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**

APPLICATION RECORD

(returnable December 4, 2024 at 10:00 am)

November 28, 2024

AIRD & BERLIS LLP

Barristers & Solicitors

Brookfield Place

181 Bay Street, Suite 1800

Toronto, Ontario M5J 2T9

Kyle Plunkett (LSO#: 61044N)

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Lawyers for the Tandia Financial Credit Union Limited

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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**

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TAB 1



Court File No.

**ONTARIO
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(Court seal)

NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing

- In person
- By telephone conference
- By video conference

before a judge presiding over the Commercial List on a date to be scheduled, or as soon after that time as the matter can be heard, via Zoom coordinates to be provided by the court.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer,

serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date November 21, 2024

Issued by

Local registrar

Address of
court office

330 University Avenue
Toronto, ON M5G 1R7

TO: SERVICE LIST

TO:	AIRD & BERLIS LLP Brookfield Place 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9 Kyle Plunkett (LSO#: 61044N) Tel: 416.865.3406 Email: kplunkett@airdberlis.com Shaun Parsons (LSO#: 81240A) Tel: (416) 637-7982 Fax: (416) 863-1515 Email: sparsons@airdberlis.com Lawyers for the Applicant
AND TO:	BDO CANADA LIMITED 805-25 Main Street West

	<p>Hamilton, ON L8P 1H1</p> <p>Peter Crawley Tel: 289-678-0243 Email: pcrawley@bdo.ca</p> <p>Chris Mazur Tel: 416-369-3795 Email: cmazur@bdo.ca</p>
AND TO:	<p>2492029 ONTARIO INC. 7263 Second Line W, Mississauga, ON L5W 1M7</p> <p>Respondent</p>
AND TO:	<p>OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY 151 Yonge Street 4th Floor Toronto ON M5C 2W7</p> <p>Tel: (416) 973-6441 Email: osbservice-bsfservice@ised-isde.gc.ca</p>
AND TO:	<p>DEPARTMENT OF JUSTICE CANADA Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1</p> <p>Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</p>
AND TO:	<p>HIS MAJESTY THE KING IN RIGHT OF CANADA as represented by Ministry of Finance Legal Services Branch Revenue Collections Branch – Insolvency Unit 33 King Street West, P.O. Box 627 Oshawa, ON L1H 8H5</p> <p>Email: insolvency.unit@ontario.ca</p>

PPSA Registrants:

AND TO:	ECONO PETROLEUM INC. 200-30 Colonnade Road Ottawa, ON K2E 7J6
AND TO:	THE TORONTO-DOMINION BANK 1900 Ellesmere Road Scarborough, ON M1H 2V6

APPLICATION

1. The applicant, Tandia Financial Credit Union Limited (“**Tandia**”), makes application for an Order that:

- a) if necessary, abridges the time for service and filing of this notice of application and the application record or, in the alternative, dispensing with and/or validating service of same;
- b) appoints BDO Canada Limited (“**BDO**”) as receiver of the assets, undertakings and properties of 2492029 Ontario Inc. (the “**Debtor**”) acquired for or used in relation to business carried on by the Debtor, including the real property located at 1371 Highway 11 North, Shanty Bay, Ontario (the “**Real Property**”), and all proceeds thereof (collectively with the Real Property, the “**Property**”); and
- c) grants such further and other relief as is just.

2. The grounds for the application are:

- a) the Debtor is privately held and incorporated under the Ontario *Business Corporations Act*, with a registered head office in Mississauga, Ontario;
- b) the Debtor is the registered owner of the Real Property;
- c) the Debtor’s sole business is the operation of a gas station at the Real Property having eight fuel pumps and an attached convenience store, operating under the “Esso” brand;
- d) Noorallah Nawrozada (“**Mr. Nawrozada**”) is the Debtor’s sole director and officer;
- e) the Debtor is indebted to Tandia in connection a certain credit facility made available by Tandia to the Debtor pursuant to and under the terms of a commitment letter entered into between Tandia, as lender, and the Debtor, as borrower, dated April 13, 2023, as amended by an amending agreement dated July 14, 2024 (as

amended, replaced, restated or supplemented from time to time, collectively, the “**Credit Agreement**”);

- f) as security for the Debtor’s obligations to Tandia, the Debtor provided security in favour of Tandia (the “**Security**”), including, without limitation, the general security agreement in favour of Tandia dated May 2, 2023, registration in respect of which was made under the *Personal Property Security Act* (Ontario) (the “**PPSA**”);
- g) while a PPSA search reveals two additional registrations, neither impacts Tandia’s first-in-time position as registered against the personal property of the Debtor;
- h) as a term of the Credit Agreement, the Real Property is subject to a charge in favour of Tandia, in the amount of \$1,900,000, to secure repayment of amounts owed to Tandia (the “**Tandia Charge**”);
- i) the Tandia Charge was registered on title to the Real Property as a first-ranking charge;
- j) the Security and the Tandia Charge each provide that, upon default, Tandia is entitled to appoint a receiver over the Property;
- k) one or more event of default has occurred under the Credit Agreement, including, without limitation: (i) as of September 17, 2024, the Debtor is in arrears of \$45,829.53, (ii) insurance over the Real Property has elapsed and not been renewed, (iii) the Real Property appears to be abandoned, (iv) Tandia is aware that the Debtor rebranded the business operations from “Ultramar” to “Esso” without the consent of Tandia, and (v) the Debtor otherwise not complying with its obligations to Tandia, each as set out in more detail in the Paracha Affidavit (as defined below);
- l) on October 15, 2024, Tandia made formal written demand on the Debtor and Mr. Nawrozada for the payment of amounts owing to Tandia under the Credit Agreement (the “**Demand Letter**”), which was accompanied by a notice of

intention to enforce security pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”);

- m) as set out in the Demand Letter, \$1,888,443.25 is due and owing by the Debtor to Tandia for principal and interest as of October 10, 2024;
- n) the Debtor has failed to honour to the Demand Letter and the Debtor has failed to make arrangements satisfactory to Tandia;
- o) at this stage, Tandia considers that the only reasonable and prudent path forward is to take any and all steps necessary to protect the Property, including the Real Property, by having a receiver appointed, and it is within Tandia’s rights under the Security to do so;
- p) it is just and equitable that a receiver be appointed. A receiver is necessary for the protection and monetization of the Property;
- q) BDO has consented to being appointed as the receiver;
- r) BDO is a licensed insolvency trustee and is familiar with the circumstances of the Debtor and its arrangements with Tandia;
- s) the other grounds set out in the affidavit of Muhammad Paracha, to be sworn, in support of the within application (the “**Paracha Affidavit**”);
- t) subsection 243(1) of the BIA;
- u) section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- v) rules 1.04, 2.01, 2.03, 3.02, 16, 38 and 41 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- w) such further grounds as are required and this Court may permit.

3. The following documentary evidence will be used at the hearing of the application:

- a) the Paracha Affidavit;

- b) the consent of BDO to act as the receiver; and
- c) such other material as is required and this Court may permit.

November 21, 2024

AIRD & BERLIS LLP

Barristers & Solicitors

Brookfield Place

181 Bay Street, Suite 1800

Toronto, Ontario M5J 2T9

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*Lawyers for Tandia Financial Credit Union
Limited*

TANDIA FINANCIAL CREDIT UNION LIMITED

- and -

2492029 ONTARIO INC.

Applicant

Respondent

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at Toronto

NOTICE OF APPLICATION

AIRD & BERLIS LLP
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Brookfield Place
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Lawyers for Tandia Financial Credit Union Limited

TAB 2

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**AFFIDAVIT OF DAWOOD KHAN
(sworn November 28, 2024)**

I, Dawood Khan, of the City of Mississauga, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am Vice President, Commercial of Tandia Financial Credit Union Limited (the “**Lender**”). The Lender is a secured creditor of 2492029 Ontario Inc. (the “**Debtor**”), the respondent herein, and I am one of the individuals employed by the Lender responsible for management of the Debtor’s accounts and credit facilities. As such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters

set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

PURPOSE

2. I am swearing this Affidavit in support of an application by the Lender for an Order appointing BDO Canada Limited (“**BDO**”) as receiver of all the assets, undertakings and properties of the Debtor acquired for or used in relation to the business carried on by the Debtor, including the real property located at 1371 Highway 11 North, Shanty Bay, Ontario (the “**Real Property**”), and all proceeds thereof (collectively with the Real Property, the “**Property**”).

THE DEBTOR

3. The Debtor is a company incorporated pursuant to the laws of the Province of Ontario with a head office in Mississauga, Ontario. Attached to this affidavit as **Exhibit “A”** hereto is a true copy of the Corporate Profile Report of the Debtor. The Corporate Profile Report provides that Noorallah Nawrozada (the “**Personal Guarantor**” or “**Mr. Nawrozada**”) is the Debtor’s sole director.

4. The Lender understands that the Debtor is owned and/or controlled by Mr. Nawrozada, an individual residing in Mississauga, Ontario. Mr. Nawrozada is also the authorized representative of the Debtor as it relates to its lending arrangements with the Lender.

5. The Debtor’s sole business is the operation of a gas station at the Real Property (the “**Premises**”) having eight fuel pumps and an attached convenience store, operating under the “**Esso**” brand (however, as described below, the Premises had previously operated under the “**Ultramar**” brand and was rebranded without notice to the Lender).

6. The relationship between the Lender and the Debtor has deteriorated beyond repair, and the Lender has no confidence in existing management's ability to sustain the business as a going-concern. There are significant monetary defaults under the Credit Agreement (as defined below) as more particularly described below, the Debtor is no longer operating business at the Premises and the Lender has little to no visibility with respect to Debtor's operations and financial circumstances.

FINANCING ARRANGEMENTS

7. The Debtor is indebted to the Lender with respect to a certain credit facility made available by the Lender to the Debtor pursuant to and under the terms of a commitment letter entered into between the Lender, as lender, and the Debtor, as borrower, dated April 13, 2023 (as amended, replaced, restated or supplemented from time to time, collectively, the "**Credit Agreement**"). A copy of the Credit Agreement is attached to this affidavit as **Exhibit "B"**.

THE SECURITY

8. To secure its obligations, the Debtor provided security (the "**Security**") to the Lender including, without limitation, the general security agreement dated May 2, 2023 (the "**GSA**"), a copy of which is attached as **Exhibit "C"** to this Affidavit.

9. The GSA secures all present and after-acquired personal property of the Debtor. The Lender has registered financing statements against the Debtor pursuant to the provisions of the *Personal Property Security Act (Ontario)* (the "**PPSA**") to perfect its security interest in the personal property of the Debtor as secured under the GSA.

10. The GSA stipulates that the Lender can appoint a receiver over the Debtor in light of an Event of Default, stating: “At any time after the happening of any event by which the security hereby constituted becomes enforceable, Tandia shall have the following rights, powers and remedies:

(a) to appoint any person to be an agent or any person to be a receiver, manager or receiver and manager (herein called the "Receiver") of the Collateral and to remove any Receiver so appointed and to appoint another if Tandia so desires; it being agreed that any Receiver appointed pursuant to the provisions of this Agreement shall have all of the powers of Tandia hereunder, and in addition, shall have the power to carry on the business of the Debtor;...”

11. The Personal Property Security Registration System Search Results (the “**PPSA Search**”) for the Debtor confirms that the Lender has a perfected security interest in the personal property of the Debtor, as secured by the GSA. Attached hereto to this affidavit at **Exhibit “D**” is a copy of certified the PPSA Search for the Debtor, current as of November 20, 2024.

12. While the PPSA Search reveals two additional registrations, neither impacts the Lender’s first-in-time position as registered against the personal property of the Debtor.

REAL PROPERTY

13. As a term of the Credit Agreement, the Real Property is subject to a charge in favour of the Lender, in the amount of \$1,900,000, to secure repayment of amounts owed to the Lender (the “**Tandia Charge**”). A copy of the Tandia Charge is attached to this affidavit as **Exhibit “E**”.

14. The Tandia Charge was registered on title to the Real Property under the following instrument numbers: SC1943409 (CHARGE) and SC1978025 (NOTICE).

15. The Tandia Charge is the second-in-time but first-ranking charge registered on title to the Real Property. The charges registered against the Real Property, in chronological order, are as follows:

- (a) a first-in-time charge in the amount of \$125,000 registered on November 11, 2022 in favour of Parkland Corporation (the “**Parkland Charge**”). The Parkland Charge is subject to a postponement from Parkland Corporation in favour of the Lender registered on May 5, 2023 (the “**Parkland Postponement**”). A copy of the Parkland Postponement is attached to this affidavit as **Exhibit “F”**;
- (b) the Tandia Charge, as a second-in-time charge, in the amount of \$1,900,000 registered on May 5, 2023 in favour of the Lender; and
- (c) a third-in-time charge in the amount of \$400,000 registered on July 5, 2023 in favour of Freight Connections Inc. (the “**Freight Charge**”).

16. Notwithstanding that the terms of the Credit Agreement stipulate that the Debtor shall not “... encumber the Mortgaged Property without Tandia’s prior written consent”, the Freight Charge was granted and registered on title to the Real Property without the written consent, or knowledge, of the Lender.

DEFAULTS AND DEMANDS

17. The Debtor failed to provide to the Lender the scheduled monthly payment due in June, 2024 (and every month since), as set out in the Credit Agreement, and did not respond to correspondence from the Lender following these missed payments.

18. On October 15, 2024, the Lender proceeded to make formal written demand on the Debtor and the Personal Guarantor for the payment of their respective obligations under the Credit Agreement and associated guarantee (collectively, the “**Demand Letters**”). A notice of intention to enforce security (the “**BIA Notice**”) pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) accompanied the Demand Letter sent to the Debtor. Copies of the Demand Letters and the BIA Notice are attached collectively as **Exhibit “G”** to this Affidavit.

19. Despite the issuance of the Demand Letters and BIA Notice, the Debtor failed to honour the Demand Letters or make satisfactory arrangements with the Lender to repay, or enter into an agreement to satisfy, amounts owing under the Credit Agreement.

20. Pursuant to the Credit Agreement, \$1,888,443.25 was owing to the Lender by the Debtor for principal, interest and fees, plus costs and expenses, as of October 10, 2024 (the “**Indebtedness**”).

21. Following the issuance of the Demand Letters, the Lender attended at the business. The operations of the Borrower appeared to be abandoned for some time. Further, the Lender understands that the insurance policy over the Premises has lapsed and was not renewed by the Debtor. It is unclear to the Lender at this time the exact amount of time that the Premises were vacant.

22. Further, the Lender is aware that the Debtor rebranded the Premises from “Ultramar” to “Esso”. The Lender is unaware of the terms, if any, of the change in the branding of the franchise, or the circumstances, financial or otherwise, that led to the change to an Esso station.

23. In light of the abandonment of the Real Property, the Lender appointed BDO as private receiver of the Debtor to prevent harm that could arise to the collateral had it remained vacant. I understand that BDO has secured the Premises and arranged for insurance over the Real Property.

24. At this stage, the Lender considers the only reasonable and prudent path forward is to take any and all steps necessary to protect the Property by having a receiver appointed, and it is within the Lender's rights under the Security to do so.

THE APPOINTMENT OF A RECEIVER

25. Despite the formal Demand Letters, the Debtor (and Personal Guarantor) have failed to pay the Indebtedness to the Lender as required.

26. Furthermore, the Debtor failed to provide any concrete plan to address their outstanding obligations to the Lender, through a negotiated forbearance agreement or otherwise, and have also failed make a filing under the BIA.

27. The Lender has the authority to appoint a receiver pursuant to terms within the Security. As noted above, the GSA and the Tandia Charge each grant the Lender the power to appoint a receiver over the Property.

28. The Lender has further provided the Debtor with sufficient opportunities to honour their obligations.

29. The Lender is extremely concerned that the value of the Property, including the Real Property, will degrade over the coming months, which could result in an inability for the Lender to seek recourse regarding the Indebtedness.

30. The Lender believes that the appointment of a receiver is necessary in order to ensure that the Real Property is secured, and not abandoned and uninsured, and that a court officer can ensure that it is properly maintained pending an orderly and transparent sales process.

31. It is the Lender's position that the appointment of a receiver is just and equitable and is necessary for the protection of the interests of the Lender, as secured creditor, and all other potential stakeholders.

32. The Lender proposes that BDO be appointed as receiver, without security, over all of the assets, undertakings and properties of the Debtor, including the Real Property (in such capacity, the "Receiver").

33. BDO has consented to act as Receiver should this Honourable Court so appoint it. A copy of BDO's consent is attached as **Exhibit "H"** to this Affidavit.

34. This affidavit is thus made in support of the within application for the appointment of BDO as Receiver, and for no other improper purpose.

Affirmed remotely by video conference on November 28, 2024 in the City of Mississauga, in the Province of Ontario, with the affiant before me in the City of Toronto, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:
Shawn Parsons
3D90420171CB499...

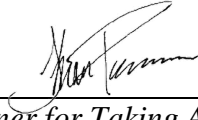
Commissioner for Taking Affidavits

Signed by:

51FD3ECD89A348F...

DAWOOD KHAN

This is Exhibit "A" referred to in the Affidavit of Dawood Khan sworn before me, this 28th, day of P qxgo dgt, 2024.



Commissioner for Taking Affidavits



Profile Report

2492029 ONTARIO INC. as of October 09, 2024

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	2492029 ONTARIO INC.
Ontario Corporation Number (OCN)	2492029
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	November 18, 2015
Registered or Head Office Address	7263 Second Line W, Mississauga, Ontario, L5W 1M7, Canada

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name NOORALLAH NAWROZADA
Address for Service 7263 Second Line W, Mississauga, Ontario, L5W 1M7,
Canada
Resident Canadian Yes
Date Began November 18, 2015

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Officer(s)

Name	NOORALLAH NAWROZADA
Position	President
Address for Service	7263 Second Line W, Mississauga, Ontario, L5W 1M7, Canada
Date Began	November 18, 2015

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

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Corporate Name History

Name

2492029 ONTARIO INC.

Effective Date

November 18, 2015

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Document List

Filing Name	Effective Date
Archive Document Package	July 12, 2023
CIA - Notice of Change PAF: Noorallah NAWROZADA	July 15, 2022
Annual Return - 2018 PAF: NOORALLAH NAWROZADA - DIRECTOR	April 14, 2019
CIA - Notice of Change PAF: NOORALLAH NAWROZADA - DIRECTOR	January 08, 2019
Annual Return - 2017 PAF: NOORALLAH NAWROZADA - DIRECTOR	March 04, 2018
Annual Return - 2016 PAF: NOORALLAH NAWROZADA - DIRECTOR	September 03, 2017
CIA - Initial Return PAF: NOORALLAH NAWROZADA - DIRECTOR	December 11, 2015
BCA - Articles of Incorporation	November 18, 2015

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

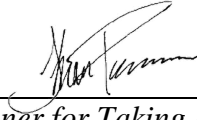
Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

This is Exhibit "B" referred to in the Affidavit of Dawood Khan a sworn before me, this 28th, day of P qxgo dgt, 2024.



Commissioner for Taking Affidavits



Tandia Financial Credit Union Limited
3455 North Service Road, Unit 100
Burlington, Ontario L7N 3G2

2492029 Ontario Inc.

COMMITMENT LETTER

13-April-2023

2492029 Ontario Inc.
1371 Highway 11 North,
Shanty Bay, ON
L0L 2L0

Attention: Mr. Noorallah Nawrozada

Tandia Financial Credit Union Limited carrying on business as Tandia (“**Tandia**”) hereby offers the credit facilities described below (the “**Credit Facilities**”) subject to the terms and conditions set forth below and in the attached Standard Terms and Conditions and Schedules (collectively, as amended, restated, supplemented or replaced from time to time, this “**Agreement**”). Unless otherwise provided, all dollar amounts are in Canadian currency.

The Standard Terms and Conditions attached hereto as Schedule A are an integral part of this Agreement. Capitalized terms used and not otherwise defined shall have the meanings set out in Schedule B attached hereto.

I. PARTIES

The following will be the borrowers and guarantors hereunder:

Borrower(s):	2492029 Ontario Inc. (the “Borrower”)
Guarantor(s):	Mr. Noorallah Nawrozada; [on a joint and several basis] (collectively, the “Guarantor”)
Additional Terms for the Parties:	Any Guarantor who is not an individual Person is referred to herein as a “ Corporate Guarantor ”. The Borrower and the Corporate Guarantor are referred to as the “ Corporate Credit Parties ”. The Borrower and the Guarantor are referred to as the “ Credit Parties ”.

I. CREDIT FACILITIES

Tandia hereby offers the following credit facilities, on and subject to the terms and conditions below, and as otherwise set out herein:

Facility #1: Collateral First Mortgage	
Facility Amount:	\$1,900,000 (such amount, the “ Original Mortgage ”).
Mortgaged Property:	The lands and premises known as 1371 Highway 11 North, Shanty Bay Ontario L0L 2L0 PIN No.: 585520015

	Legal description: LT 1 PL 1169 ORO; ORO-MEDONTE	
Availability:	Facility to be drawn down in full on the initial Drawdown Date.	
Repayment:	Fixed: In blended monthly payments of principal and interest sufficient to repay the facility in-full based on the Amortization specified below.	
Prepayment:	10% of the original mortgage amount during each year of the interest rate term (non-cumulative); otherwise, subject to a three (3) month interest rate penalty on the balance outstanding at the time of repayment or the interest rate differential to maturity, whichever is greater.	
Term:	36 months from the Drawdown Date for this facility.	
Maturity Date	3 years from the date of draw down of this facility.	
Amortization:	216 months	
Interest Rate:	Fixed Rate at 6.90% per annum.	
Facility Specific Restrictions and Conditions:	<u>Sale/Transfer:</u>	The Borrower shall not sell, transfer, distribute or otherwise encumber the Mortgaged Property without Tandia's prior written consent. Any such sale, transfer, distribution or encumbrance of the Mortgaged Property shall constitute an Event of Default.
	<u>Alterations:</u>	The Borrower will not make any material changes, additions or alterations to the Mortgaged Property without Tandia's prior written consent. Any such material changes, additions or alterations to the Mortgaged Property shall constitute an Event of Default.
	<u>Inspections:</u>	The Borrower will permit Tandia and any authorized representative of Tandia authorized by Tandia at all reasonable times to inspect the Mortgaged Property from time to time.

II. SPECIFIC TERMS AND CONDITIONS

<u>Fees</u>		
The Borrower shall pay to Tandia, the following fees in connection with Credit Facilities, in the amounts and frequency noted below:		
Setup Fee:	\$14,480	Payable by the Borrower(s) as follows: (i) \$9,000 (non-refundable), collected on January 18 th , 2023; and (ii) the balance (\$5,480) at the time of accepting this commitment letter.
Other Fees:	<u>Annual Review Fee:</u> \$2,000	Payable by the Borrower on each anniversary of this Agreement, or at such other time as may be agreed upon by the Borrower and Tandia. The review fee(s) do not and shall not in any way obligate Tandia to grant, continue, renew or extend any of the Credit Facilities or any other credit or indebtedness
	<u>Renewal Fee:</u>	If Tandia renews or extends any term facility or term loan beyond its Maturity Date, an additional renewal fees may be payable by the Borrower in connection with any such renewal in such amount as Tandia may determine and notify the Borrower

	Late Reporting Fee:	The Borrower[s], may at the Credit Union's sole discretion, be charged a late reporting fee of \$500 each time the Borrower[s] default under a Reporting Covenant
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<u>Security</u>	
Security for the Borrowings and all other obligations of the Credit Parties (as applicable) to Tandia (collectively, the " Security Documents "), shall include the following, each of which shall be in form and substance satisfactory to Tandia:	
a)	Collateral mortgage in the amount of \$1,900,000 signed by the Borrower, including an assignment of rents, constituting a first fixed charge on the lands and improvements located at: 1371 Highway 11 North, Shanty Bay, ON L0L 2L0.
b)	A first position General Security Agreement representing a fixed and floating charge over the assets and undertakings currently owned by the "Borrower", as well as a first charge over all assets acquired in the future;
c)	Unlimited Personal Guarantees and postponement of claim from Mr. Noorallah Nawrozada;
d)	Postponement and Subordination of all shareholders' non arm's length creditor's and related party loans, to include a postponement of the right to receive any payment of both principal and interest under the said loans. The Lender shall be provided with a list of all shareholders' non arm's length creditor's and related party loans and amount prior to funding
e)	Assignment of adequate public liability fire insurance showing Tandia Financial Credit Union Limited as mortgagee and first loss payee;
f)	Evidence of Environmental Cleanup and Liability Insurance with minimum of \$2,500,000 per occurrence with Tandia Financial Credit Union Limited to be shown as additional insured on the insurance policy for the Real Property;
g)	Environment Undertaking and Indemnity from the Borrower and the Guarantors;
h)	Promissory note;
i)	Any other documentation necessary in the opinion of the Lender or its Solicitor to complete this transaction.

<u>CONDITIONS PRECEDENT TO FUNDING</u>	
In no event will the Credit Facilities or any part thereof be available unless all of the standard conditions precedent contained in Section 7 of Schedule A have been met, and Tandia has received the following, in form and substance satisfactory to Tandia:	
a)	a duly executed copy of this Agreement;
b)	executed New Business Membership Application and related account opening documentation with acceptable forms of personal identification not less than three (3) business days prior to funding;
c)	An Environmental Site Assessment Phase I for the Mortgaged Property with results satisfactory to Tandia and a corresponding transmittal letter addressed to Tandia allowing the report to be used for mortgage lending purposes;
d)	an updated current AACI appraisal for the Mortgaged Property in a form and from an appraisal firm satisfactory to Tandia with a corresponding transmittal letter addressed to Tandia;

e)	confirmation that all government remittances (corporate income tax, GST/HST remittances) for the Corporate Credit Parties are current and up to date;
f)	Latest personal tax returns and the 2022 Notice of Assessment of Noorallah Nawrozada;
g)	Confirmation that all taxes on the Real Property are current and up to date;
h)	Tandia shall have received such legal opinions as it may require from the Credit Parties' counsel, including with respect to the due authorization, execution, delivery and enforceability of the Financing Documents and related matters; and
i)	such other authorizations, approvals, opinions and documentation as Tandia may reasonably require.

FINANCIAL COVENANTS

The **Borrower** shall:

a)	The Borrower's Debt Service Coverage as defined herein at not less than 1.35:1; and
b)	<p>The Borrower acknowledges and agrees that dividends and bonuses will only be paid and capital withdrawals from the corporation will only be made from cash flow surplus to the Debt Service Coverage as defined herein. For greater certainty, any and all withdrawals¹ from the corporation will be included in the calculation of Debt Service Coverage as outlined below:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> $\text{EBITDA* minus net withdrawals} \div \text{Principal and interest payments on all long term debt [and leases]} = \text{Debt Service Coverage}$ </div> <p>Any additional withdrawals¹ will require the Lender's prior written consent.</p> <p>¹ For the purposes of the Debt Service Coverage calculation, the term withdrawal includes any withdrawal of funds from the corporation(s) including, without limitation: dividends, bonuses, payments and/or advances to non-arm's length parties, repayment of loans to non-arm's length parties.</p>

REPORTING REQUIREMENTS

The Corporate Credit Parties will provide the following to Tandia within 120 days of each fiscal year-end:

a)	Year-end financial statements of the Borrower prepared on a minimum Review Engagement basis;
b)	Confirmation that all taxes have been paid on the Mortgaged Property, and, in the event confirmation is not provided, Tandia will be entitled to obtain a tax certificate at the Borrower's expense;
c)	The Guarantor(s) to provide the Lender with up to date personal net worth statements and Canada Revenue Agency personal Notice of Assessment statements as evidence of payment of personal income taxes when requested by the Lender;
d)	Canada Revenue Agency Corporate Income Tax Notice of Assessment statements for the Borrower as evidence of payment of corporate income taxes when requested by the Lender;
e)	Canada Revenue Agency GST/HST Notice of Assessment statements for the Borrower as evidence of payment of applicable GST/HST when requested by the Lender;

f)	such other financial and operating statements and reports as and when Tandia may reasonably require;
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COVENANTS

In addition to the positive covenants set out in Section 8 of Schedule A, each of the Credit Parties covenants and agrees with Tandia that they shall:

a)	maintain membership with Tandia in good standing at all times while any portion of the Credit Facilities remain outstanding or committed; and
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In addition to the negative covenants set out in Section 9 of Schedule A, each of the Credit Parties covenants and agrees with Tandia that, without the prior written consent of Tandia, they shall not:

a)	allow, grant or provide other borrowings encumbrances or the like will be permitted over the Mortgaged Property without the consent of Tandia;
b)	amend its management or ownership structure or otherwise permit a Change of Control;
c)	make any investments, including, an acquisition (whether for cash, property, services, securities or otherwise) of shares, bonds, notes, debentures, partnership or other property interests or other securities of any other Person or any agreement to make any such acquisition;

EVENTS OF DEFAULT

The Credit Union may accelerate the payment of principal and interest under any committed Facility hereunder and cancel any undrawn portion of any committed Facility hereunder at any time after the occurrence of any one of the Events Default contained in Section 12 of Schedule A attached hereto.

LANGUAGE PREFERENCE

This Agreement has been drawn up in the English language at the request of all parties hereto. *Cet acte a été rédigé en langue Anglaise à la demande de toutes les parties.*

ACCEPTANCE & COMMITMENT EXPIRY

This Agreement is open for acceptance until April 19, 2023, after which date it will be null and void, unless extended in writing by Tandia.

AND

The Commitment Letter will expire if not advanced by the close of business on May 15, 2023 after which date the Lender is not obligated to advance.

COUNTERPARTS AND ELECTRONIC COMMUNICATIONS

This Agreement (and each Financing Document) may be signed by handwritten signature or electronically by using technology acceptable to Tandia. To evidence execution of this Agreement (or any other Financing Document), the Borrower(s) and Guarantor(s), as applicable, must deliver and return to Tandia an executed copy of each with the original handwritten signatures of each Credit Party's duly authorized signatories (or Electronic Signatures of such signatories if so permitted by Tandia) by physical delivery, or if so permitted by Tandia, by facsimile, email or other electronic delivery or transmission and such transmission shall constitute delivery of an executed copy this Agreement or relevant loan document. If a Credit Party uses Electronic Signature to indicate its agreement, it shall ensure that its Electronic Signature is attached to or associated with this Agreement (or such other Financing Document). This Agreement and each other loan document may be executed in one or more counterparts and signed as outlined above, each of which when so executed when taken together shall constitute one and the same agreement. Delivery of a handwritten or electronically-signed counterpart

and electronic delivery (including by email transmission or transmission over an Electronic Signature platform acceptable to Tandia) are each as valid, enforceable, binding and effective.

TANDIA FINANCIAL CREDIT UNION LIMITED

By: Muhammad Paracha
Name: Muhammad Paracha
Title: Commercial Account Manager

By: Rafique Arijjo
Name: Rafique Arijjo
Title: Manager, Commercial Credit


[Acknowledgment Page Follows]

Acknowledgment & Acceptance


We hereby accept and acknowledge and agree to the terms and conditions of this Commitment Letter on this 13th day of April, 2023.

BORROWER:

2492029 Ontario Inc.

By: 
Name: Noorallah Nawrozada
Title: President

GUARANTORS:


Noorallah Nawrozada



SCHEDULE A
STANDARD TERMS AND CONDITIONS

1. Currency

All dollar amounts expressed in this Commitment Letter shall refer to Canadian dollars unless otherwise specified.

2. Currency Indemnity

Loans denominated in Canadian currency must be repaid with Canadian currency and loans denominated in United States currency must be repaid in United States currency and the Borrower shall indemnify Tandia for any loss suffered by Tandia if a loan denominated in United States currency is repaid with Canadian currency or vice versa, whether such payment is made pursuant to an order of a court or otherwise.¹

3. Evidence of Indebtedness

Tandia's accounts, books, and records constitute, in absence of manifest error, conclusive evidence of the advances made under the Credit Facilities, repayments on account thereof and the indebtedness of the Credit Parties, as applicable, to Tandia.

4. Authorization

Each of the Credit Parties, for good and valuable consideration, authorizes Tandia to accept email, fax and other electronic communications on behalf of the Credit Parties as full and sufficient authority to act in accordance with communications as received by Tandia from the Credit Parties. Each of the Credit Parties shall be bound by all such email, fax and other electronic communications from itself in the same manner and extent as if such communications were originally handwritten and signed by such Credit Party, and each of the Credit Parties shall hold Tandia at all times fully indemnified from all claims and demands in respect of all such instructions, in the event such telecopier and electronic communications, were made without authority or otherwise.

5. Interest, Fees and Payment

- (a) Interest on the daily balance of principal advanced under the Commitment Letter and remaining unpaid from time to time shall be payable by the Borrower as set out in the Commitment Letter both before and after maturity or default and judgment. At the discretion of Tandia, each payment under the Commitment Letter shall be applied first in payment of outstanding costs, expenses, fees and interest in each case, then due in accordance with the Commitment Letter and the balance, if any, shall be applied in reduction of outstanding principal in inverse order of maturity.
- (b) The fees collected by Tandia shall be its property as consideration for the time, effort and expense incurred by it in the review of documents and financial statements, and the Borrower acknowledges and agrees that the determination of these costs is not feasible and that the fees set out in the Commitment Letter represent a reasonable estimate of such costs.

¹ NTD: TBD if Tandia advances US\$ amounts

- (c) To the extent permitted by applicable law, any amounts which become payable to Tandia under the Commitment Letter or the Security Documents or the other Financing Documents and which are not paid when due shall accrue interest and be payable from the due date at an annual rate equal to Tandia's Prime Rate plus 5% per annum, compounded and payable monthly on the last day of each month, both before and after default and judgment, if no other interest rate is expressed for such amounts.
- (d) All payments by the Borrower to Tandia shall be made at the address of the branch of Tandia set out on the Commitment Letter or at such other place as Tandia may specify in writing from time to time. Any payment delivered or made to Tandia by 3:00 p.m. local time at the place where such payment is to be made shall be credited as of that day, but if made afterwards shall be credited as of the next Business Day.
- (e) Notwithstanding anything to the contrary contained in the Commitment Letter, Tandia may, in its discretion, make an advance under the Credit Facilities to pay any unpaid interest or fees which have become due under the terms of the Commitment Letter.
- (f) The obligation of the Credit Parties, as applicable, to make all payments under the Financing Documents shall be absolute and unconditional and shall not be limited or affected by any circumstance, including, without limitation:
 - (i) any set-off, compensation, counterclaim, recoupment, defense or other right which the Borrower or any Guarantor, as applicable, may have against Tandia or anyone else for any reason whatsoever; or
 - (ii) any insolvency, bankruptcy, reorganization or similar proceedings by or against the Borrower or any Guarantor, as applicable.
- (g) The imposition or collection of a fee does not constitute an express or implied waiver by Tandia of any Event of Default or of any of the terms or conditions of the lending arrangements, Security or rights arising from any Event of Default. Fees may be charged to the Borrower's deposit account when incurred.
- (h) For purposes of the *Interest Act* (Canada): (x) whenever any interest or fee under this Commitment Letter is calculated on the basis of a period of time other than a calendar year, such rate used in such calculation, when expressed as an annual rate, is equivalent to (A) such rate, multiplied by (B) the actual number of days in the calendar year in which the period for which such interest or fee is calculated ends, and divided by (C) the number of days in such period of time; (y) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Commitment Letter; and (z) the rates of interest stipulated in this Commitment Letter are intended to be nominal rates and not effective rates or yields.
- (i) If any provision of this Commitment Letter would oblige Borrower to make any payment of interest or other amount payable to Tandia in an amount or calculated at a rate which would be prohibited by applicable Law or would result in a receipt by Tandia of "interest" at a "criminal rate" (as such terms are construed under the Criminal Code (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable Law or so result in a receipt by Tandia of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), first, by reducing the amount or rate of interest and thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to Tandia which would constitute "interest" for purposes of section 347 of the Criminal Code (Canada).

- (j) Each of the Credit Parties confirms that it fully understands and is able to calculate the rate of interest applicable to each of the Credit Facilities based on the methodology for calculating per annum rates provided for in this Commitment Letter. Tandia agrees that if requested in writing by the Borrower it shall calculate the nominal and effective per annum rate of interest on any Borrowing outstanding at any time and provide such information to the Borrower promptly following such request; provided that any error in any such calculation, or any failure to provide such information on request, shall not relieve the Borrower or any other Credit Party of any of its obligations under this Commitment Letter or any other Financing Document, nor result in any liability to Tandia. Each Credit Party hereby irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to the Financing Documents, that the interest payable under the Financing Documents and the calculation thereof has not been adequately disclosed to the Credit Parties, whether pursuant to Section 4 of the *Interest Act* (Canada) or any other applicable law or legal principle.

6. Prepayment

- (a) Revolving Facility: Whole or partial prepayment of a revolving facility is permitted at any time without prepayment fee or penalty unless otherwise stipulated herein, on not less than five (5) Business Days' written notice to Tandia.
- (b) Mortgages/Term Loans:
- (i) If the interest rate on the mortgage/term loan being prepaid is floating, prepayment in whole or in part of a facility is permitted at any time, on not less than five (5) Business Days' written notice to Tandia, and provided that the Borrower also pays a prepayment fee equal to three (3) months interest on the amount being prepaid.
- (ii) If the interest rate on the mortgage/term loan being prepaid is fixed:
- (1) the Borrower may make prepayments in addition to those required on the stipulated dates prior to the term maturity date not exceeding 10% (or such other amount as may be stipulated in the body of this Agreement of the original principal amount of the applicable facility, with such right being provided on a non-cumulative, such that if the Borrower does not use this privilege in a calendar year, the Borrower cannot carry forward this right of prepayment for that calendar year to any following calendar year; and
- (2) any additional prepayment above the 10% permitted under Section 6(b)(ii)(1) above may only be for the entire remaining balance of the applicable facility (including outstanding principal, interest, applicable expenses and discharge costs), and shall be subject to a prepayment fee equal to the greater of: (x) three months interest, based on the unpaid principal balance of the applicable facility as at the payout date, and (y) the interest rate differential, being an amount calculated by multiplying the difference between the existing annual interest rate applicable to the facility and the then current annual interest rate Tandia would achieve on a similar loan as at prepayment date, by the unpaid principal balance of the applicable facility as at the requested payout date, and calculated with respect to the remaining portion of the term of the facility.
- (c) All amounts prepaid hereunder shall be applied first against outstanding interest, fees and costs, and then against any principal balance payments, in inverse order of maturity.

- (d) The Borrower acknowledges and agrees that any prepayment fee payable hereunder is a genuine estimate of the costs that would accrue to Tandia on a prepayment of the applicable credit facility, that ascertaining actual damages of a prepayment would be extremely difficult or impractical and that the prepayment fees payable hereunder are reasonable in the circumstances. The parties hereto hereby acknowledge and agree that any prepayment fee payable hereunder by the Borrower[s] shall continue to be payable under or in connection with any bankruptcy or insolvency proceeding involving the Borrower[s] under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the United States Bankruptcy Code or the *Winding Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous Laws.

7. Standard Conditions Precedent

In addition to the conditions precedent previously set out, delivery, completion or receipt of the following shall be a condition precedent to each Borrowing hereunder:

- (a) the representations and warranties contained herein are and shall continue to be true and correct in every material respect as if made by the Credit Parties, as applicable, contemporaneously with the initial Borrowing, except to the extent specifically relating to an earlier date;
- (b) Tandia shall have received:
- (i) a copy of the Organizational Documents of each Corporate Credit Party, an incumbency certificate of each Corporate Credit Party and the resolutions of the board of directors of each Corporate Credit Party authorizing the execution, delivery and performance of the Financing Documents, certified in each case by a senior officer of the applicable Corporate Credit Party;
 - (ii) a certificate of status for each Corporate Credit Party or its equivalent from its jurisdiction of organization; and
 - (iii) such additional supporting documents as Tandia or its counsel may reasonably request;
- (c) Tandia shall have received the Security Documents duly executed by the issuer thereof and in form and substance satisfactory to Tandia, and the same shall have been registered, recorded or filed in all jurisdictions deemed necessary or advisable by Tandia and its counsel;
- (d) Tandia shall have received evidence of the receipt by the Credit Parties of all necessary consents and approvals required from any creditor, Governmental Authority or other person required for the entry into, execution and delivery of the this Agreement and all documents required in connection herewith, and the performance of their obligations hereunder and thereunder, satisfactory to Tandia;
- (e) except for Permitted Debt and indebtedness being repaid with the proceeds of the initial Borrowings, no Credit Party shall have any other indebtedness;
- (f) Tandia shall have received a request for any Borrowings as may be required in accordance with its standard practice;
- (g) Tandia or its counsel shall have received all searches as may be required by Tandia, including with respect to personal property, title to real property, taxes, corporate searches

and other searches as may be required and the results of same shall be satisfactory to Tandia;

- (h) the Credit Parties shall be in compliance with all of the covenants, terms and conditions of this Agreement and the other Financing Documents;
- (i) Tandia and its counsel shall have been paid all fees owing under or in connection with the Financing Documents as may then be due and payable;
- (j) no Event of Default shall have occurred or would arise as a result of any Borrowing;
- (k) there shall not have occurred since the date hereof any change or development likely to have a Material Adverse Effect.

8. Positive Covenants

In addition to the covenants previously set out, each of the following shall apply until the Credit Facilities are repaid in full and cancelled, unless otherwise permitted by the prior written consent of Tandia, each of the Credit Parties shall:

- (a) make due and timely payment of the Obligations required to be paid by it under this Commitment Letter or any other Financing Document;
- (b) use the proceeds of the Credit Facilities only as contemplated under the purpose section of the Commitment Letter;
- (c) maintain its membership with Tandia while any portion of the facilities remains outstanding or committed. A minimum \$25.00 share deposit is required;
- (d) maintain all such records in connection with its business or affairs as may be desirable in accordance with prudent business practice and permit Tandia or associated agents access at all reasonable times to any premises where collateral covered by the Security Documents may be located and Tandia or its agents may inspect such collateral and all related documents and records;
- (e) advise Tandia of any change in the amount and the terms of any credit arrangement secured against any of their Property made with other lenders or any action taken by another lender to recover amounts secured against their Property outstanding with such other lender;
- (f) advise promptly after the happening of any event or circumstance which could result in a Material Adverse Effect or the occurrence of any Event of Default or default under the Commitment Letter;
- (g) inform Tandia of any actual or threatened litigation, dispute, arbitration or other proceeding that is uninsured, has a reasonable likelihood of an adverse determination and if adversely determined would reasonably be expected to have a Material Adverse Effect and furnish Tandia with copies of details of any litigation, dispute, arbitration or other proceeding, which would reasonably be expected to have a Material Adverse Effect;
- (h) engage in that portion of the business now conducted by it at all of its Real Property, carry on and conduct its business and operations at the Real Property in a proper, efficient and businesslike manner, in accordance with good business practice and do all things necessary to maintain in good standing its corporate or partnership existence, as the case may be, and preserve and keep all material agreements, rights, franchises, licenses,

operations, contracts or other arrangements relating to the Real Property in full force and effect except where the failure to keep or preserve would not reasonably be expected to have a Material Adverse Effect;

- (i) pay or discharge, or cause to be paid or discharged, before they become delinquent:
 - (i) all taxes imposed upon it or upon its income or profits or in respect of the business and file all material tax returns in respect thereof;
 - (ii) all lawful claims against it for labour, materials and supplies which may result in liens on the Real Property;
 - (iii) all taxes required to be paid in respect of any real property owned by the Credit Parties, and shall provide proof of payment of same to Tandia as receipts are obtained from the applicable municipality, and no less frequently than on an annual basis; and
 - (iv) all of its other obligations under any of its debt in an outstanding, where the failure to pay or discharge such obligation would permit the holder of such debt to cause such debt to become due prior to its stated maturity date;

provided, however that the Borrower shall not be required to pay or discharge, or to cause to be paid or discharged, any such amount so long as its validity or quantum is contested in good faith by appropriate proceedings, and a reserve has been established in its books and records in accordance with GAAP. If the Borrower fails to keep the tax payments referred to in Section 8(i)(iii) up to date, Tandia reserves the right to pay the taxes and to collect from the Borrower an amount sufficient to pay the taxes in full. If the Borrower fails to timely provide Tandia with evidence of payment status of the taxes referred to in paragraph Section 8(i)(iii), the Borrower authorizes Tandia to obtain the document from the municipality at the immediate sole cost and expense of the Borrower plus costs incurred;

- (j) maintain or cause to be maintained with reputable insurers satisfactory to Tandia, acting reasonably, comprehensive general liability insurance and insurance coverage against risk of loss or damage to its Property up to its full replacement value, and including public liability and damage to property of third parties, business interruption insurance, fire and extended peril insurance and boiler and machinery insurance, all in such amounts and otherwise covering such risks as are at all times satisfactory to Tandia, acting reasonably, and provide to Tandia, on an annual basis, evidence of coverage maintained by the Borrower. The Borrower shall, on an annual basis prior to the expiry or replacement of any insurance policy, send copies of all renewed or replacement policies to Tandia which policies shall provide for insurance coverage in types and amounts as would be maintained by a reasonable Person engaged in a business of a size and nature analogous to the business. Without limiting the generality of the foregoing, the Borrower shall maintain or cause to be maintained in good standing all insurance coverages reasonable and prudent for a business analogous to the business. Tandia shall be indicated in all insurance policies, as applicable, as a first loss payee and additional insured and all policies shall contain such clauses as Tandia requires, acting reasonably, for the protection of Tandia to the extent that it is available. If the Borrower fails to take out and keep in force such minimum insurance as is required hereunder, then Tandia may, but not be obliged to, take out and keep in force such insurance at the immediate sole cost and expense of the Borrower plus costs incurred, or use other means at its disposal under the terms of the Security Documents;
- (k) operate its business carried on at its Real Property in compliance with applicable Requirements of Environmental Law and operate its Real Property such that no obligation, including a clean-up or remedial obligation, shall arise under any Requirements of

Environmental Law, in each case to the extent that failure to do so could reasonably be expected to have a Material Adverse Effect, provided however, that if any such claim is made or any such obligation arises, the Borrower shall immediately satisfy or contest such claim or obligation at its own cost and expense. The Borrower shall promptly notify Tandia to the extent that it becomes aware of:

- (i) the existence of Hazardous Substance located on, above or below the surface of any Mortgaged Property (except those being stored, used or otherwise handled in compliance with applicable Requirements of Environmental Law), or contained in the soil or water constituting such land; or
 - (ii) the occurrence of any reportable release, spill, leak, emission, discharge, leaching, dumping or disposal of Hazardous Substances that has occurred on or from any Mortgaged Property,
 - (iii) in each case to the extent that failure to do so could have a Material Adverse Effect;
- (l) pay, at the Borrower's sole cost and expense, the entire cost of any environmental audit relating to its Real Property deemed necessary by Tandia in Tandia's sole discretion. Such audit shall be performed by a duly licensed auditor acceptable to Tandia. The scope of any environmental audit shall be at Tandia's sole discretion. The auditor performing the environmental audit, its employees and agents shall be granted full access to its Real Property and all buildings thereon to perform any testing or investigation deemed necessary by the auditor in the auditor's sole discretion;
- (m) pay promptly all reasonable and documented fees and disbursements (including taxes thereon) incurred or paid by Tandia in connection with the preparation, negotiation, execution, delivery, maintenance, amendment and enforcement (including any workouts in connection with or in lieu of any enforcement) of the Financing Documents, and in connection with the consummation of the transactions contemplated by the Financing Documents, and including, without limitation, all court costs and all reasonable and documented fees and disbursements of lawyers, auditors, consultants and accountants;
- (n) maintain, administer, fund and invest all Pension Plans and Welfare Plans relating to its business in compliance in all material respects with all applicable Law including any applicable pension and tax Law and shall provide Tandia with copies of all reports submitted to any Governmental Authority with respect to Pension Plans with a "defined benefit provision" as such term is defined in the *Income Tax Act* (Canada), concurrently with the delivery of such reports to such Governmental Authority;
- (o) promptly, upon having knowledge, give notice to Tandia of:
- (i) any notice of expropriation affecting any of its Real Property or any other Property in which an Encumbrance is granted in favour of Tandia;
 - (ii) any violation of any applicable Law which does or may have a Material Adverse Effect;
 - (iii) any default under any outstanding debt of the Borrower;
 - (iv) any termination prior to maturity, or non-renewal of or default under a material contract relating to its Real Property or any termination, lapse, rescission or default under a licence, in each case, that would reasonably be expected to have a Material Adverse Effect;

- (v) any damage to or destruction to its Real Property;
 - (vi) the receipt of insurance proceeds by the Borrower on account of its Real Property;
 - (vii) any material change or proposed material change in the business carried on at its Real Property;
 - (viii) any entering into of a material contract relating to its Real Property other than in the ordinary course of business; and
 - (ix) any material adverse change in, or material adverse amendment to, any material contract relating to its Real Property or termination of a material licence relating to its Real Property;
- (p) make due and timely payment of regular rent / lease payment on all Mortgaged Property that are rented / leased premises; and
- (q) execute any further instruments and take further action as Tandia reasonably requests to perfect or continue Tandia's Encumbrances in its Real Property, the Collateral or to effect the purposes of this Commitment Letter.

9. Negative Covenants

In addition to the covenants previously set out, each of the following shall apply until the Credit Facilities is repaid in full and cancelled, unless otherwise permitted by the prior written consent of Tandia, the Credit Parties shall not:

- (a) dispose of any Mortgaged Property except in accordance with the terms of the Commitment Letter;
- (b) operate the business carried on at its Real Property in a manner that would reasonably be expected to have a Material Adverse Effect;
- (c) consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction intended to effect or otherwise permit a change in its existing corporate or capital structure, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution, or take any action in furtherance of any of the foregoing except for a Permitted Corporate Restructuring;
- (d) change its name without providing Tandia with thirty (30) days prior written notice thereof;
- (e) create, incur, assume or permit any debt to remain outstanding, other than Permitted Debt, or make any payments on account of any debt, other than trade payables in the ordinary course or payments expressly permitted hereunder or under Permitted Encumbrances or otherwise permitted pursuant to the Financing Documents;
- (f) give any Financial Assistance other than Financial Assistance in respect of Permitted Debt;
- (g) create, incur, assume or permit to exist any Encumbrance upon any of its Property, except Permitted Encumbrances;
- (h) make any change to its fiscal year without providing Tandia with thirty (30) days prior written notice thereof;

- (i) continue into any other jurisdiction without providing Tandia with thirty (30) days prior written notice thereof;
- (j) make any material change to the nature of its business;
- (k) move any Property from a jurisdiction in which the Encumbrance of the Security over such Property is perfected to a jurisdiction where that Encumbrance is not perfected or where, after a temporary period allowing for registration in such other jurisdiction, that Encumbrance could become unperfected, or suffer or permit in any other manner any of its Property to not be subject to that Encumbrance or to be or become located in a jurisdiction in which that Encumbrance is not perfected;
- (l) enter into any transaction or series of transactions, whether or not in the ordinary course of business, with any officer, director, shareholder, subsidiary or affiliate of the Borrower other than (i) upon terms and conditions that would be obtainable in a comparable arm's length transaction; (ii) transactions among the Credit Parties, as applicable; and (iii) transactions otherwise permitted by this Commitment Letter; or
- (m) take (or fail to take) any action, the result of which would be a Change of Control of the Borrower.

The Borrower(s) confirm(s) that it/they will (i) not, directly or indirectly, use any amounts advanced or seek advances under the Credit Facilities for any illegal purpose or (a) to fund any activity or business with any person or in any country or territory that is the subject or target of Sanctions or (b) in any manner that would result in a violation of Sanctions by any person (including any lender, advisor or otherwise) and (ii) not repay any amounts owing to Tandia using any funds derived directly or indirectly from any illegal or sanctionable activity, provided that this covenant shall be inapplicable only to the extent of any relevant violation of the *Foreign Extra-Territorial Measures Act* (Canada) or any similar applicable anti-boycott law or regulation.

10. Waiver

Tandia shall have the right to waive the delivery of any Security Documents or the performance of any term or condition of the Commitment Letter, and may advance all or any portion of the Credit Facilities prior to satisfaction of any of the aforesaid conditions precedent, but any such waiver by Tandia of any obligation or condition shall not constitute a waiver of such obligation or condition for any future advance.

11. Letters of Credit

Tandia shall have the discretion to restrict the maturity date of letters of credit.

12. Events of Default

Upon the occurrence of any one of the following events (an "**Event of Default**") the obligation of Tandia to make any further advances under the Credit Facilities shall terminate immediately and, Tandia may, by written notice to the Borrower, declare all the unpaid principal of and accrued interest for the Credit Facilities to be immediately due and payable whereupon the same shall become due and payable forthwith:

- (a) the Borrower or any Guarantor fails to make any payment of principal or interest when due pursuant to this Commitment Letter and such failure continues for three (3) business days;
- (b) there is a breach by the Borrower or any Guarantor of any other term, condition or covenant contained in this Commitment Letter or any other Financing Document and the failure is not remedied within five (5) days of the Borrower or Guarantor becoming aware of such breach;

- (c) a representation or warranty contained herein or any other Financing Document is incorrect in any material respect and such incorrectness continues for five (5) days after the Borrower or any Guarantor becomes aware of such incorrectness;
- (d) the failure of the Borrower or any Guarantor to:
 - (i) to make any payment when such payment is due and payable to any Person in relation to any debt following the expiry of any applicable cure period;
 - (ii) save as provided in Section 12(b) hereof, to observe or perform any other agreement or condition in relation to any debt to any Person, or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other condition is to cause, or to permit the holder of such other debt to cause such debt to become due prior to its stated maturity date;

(it being agreed, for greater certainty that the obligations hereunder are cross defaulted to the agreements in respect of the other existing lenders to the Borrower and the Guarantors, subject to the limits set out above).

- (e) there occurs, in the sole discretion of Tandia:
 - (i) an event or circumstance that results in a Material Adverse Effect; or
 - (ii) a Change of Control;
- (f) any default occurs under any Security Document or under any other Financing Document and that default is not remedied within 5 days of the Borrower becoming aware of such failure;
- (g) default by the Borrower or any Guarantor under any other agreement, whether now or hereafter existing, with Tandia or in respect of any obligation to Tandia;
- (h) the cessation or proposed cessation of the business of the Borrower generally or the admission by the Borrower or any Guarantor of its or his inability to, or, its actual failure to, pay its or his debts generally as they become due;
- (i) the denial by the Borrower or any Guarantor of its obligations under any Financing Document, or the claim by the Borrower or any Guarantor that any of the Financing Documents is invalid or has been withdrawn in whole or in part;
- (j) the enactment of any legislation or the entering or obtaining of any decree or order of a court, statutory board or commission which renders any of the Financing Documents or any material provision of any of them unenforceable, unlawful or otherwise changed, if the Borrower or Guarantor does not, within thirty (30) days of receipt of notice of the Financing Document or material provision becoming unenforceable, unlawful or otherwise changed, replace the applicable Financing Document with a new agreement that is in form and substance satisfactory to Tandia in its sole discretion, acting reasonably, or amend the applicable Financing Document to the satisfaction of Tandia in its sole discretion, acting reasonably;
- (k) the entering or obtaining of a decree or order of a court of competent jurisdiction adjudging the Borrower or any Guarantor a bankrupt or insolvent, or approving as properly filed a petition seeking the winding-up of the Borrower or any Guarantor under the *Companies' Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the

United States Bankruptcy Code or the *Winding Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous Laws or issuing sequestration or process of execution against any substantial part of the assets of the Borrower or any Guarantor or ordering the winding up or liquidation of its affairs unless the same is being contested actively and diligently in good faith by appropriate and timely proceedings and is dismissed, vacated or permanently stayed within fifteen (15) days of institution;

- (l) the making by the Borrower or any Guarantor of an assignment in bankruptcy, or any other assignment for the benefit of creditors, or any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable Law, or the seeking of relief under the *Companies' Creditors Arrangement Act* (Canada), the United States Bankruptcy Code, the *Winding Up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous Law, or where the Borrower or any Guarantor is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar Law affecting creditors' rights or consents to the filing of such a petition except for a solvent reorganization or arrangement pursuant to a Permitted Corporate Restructuring;
- (m) the filing or instituting of any proceeding by or against the Borrower or any Guarantor seeking to have an order for relief entered against the Borrower or any Guarantor as debtor or to adjudicate it bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition under any Law relating to bankruptcy, insolvency, reorganization or relief of debtors (including, without limitation, the *Bankruptcy and Insolvency Act* (Canada), the *Companies Creditors Arrangement Act* (Canada), the United States Bankruptcy Code and the *Winding-Up and Restructuring Act* (Canada)), or seeking appointment of a receiver, trustee, custodian or other similar official for the Borrower or any Guarantor or for any substantial part of its properties or assets unless the same is being contested actively and diligently in good faith by appropriate and timely proceedings and is dismissed, vacated or permanently stayed within sixty (60) days of institution;
- (n) the taking of possession by an Encumbrancer, by appointment of a receiver, receiver and manager, or otherwise, of Property of the Borrower or any Guarantor and such action is not being contested in good faith and by appropriate proceedings or, if so contested such possession or enforcement proceedings continue for more than thirty (30) days;
- (o) the entering or obtaining of a final judgment or decree for the payment of money due against the Borrower or any Guarantor if that judgment or decree is not vacated, discharged or stayed pending appeal within the applicable appeal period;
- (p) the institution of any steps by the Borrower or any Guarantor or any applicable regulatory authority to terminate a Pension Plan (wholly or in part) that has a "defined benefit provision" as defined in the *Income Tax Act* (Canada) if, as a result of such termination, the Borrower or any Guarantor may be required to make an additional contribution to such Pension Plan, or to incur an additional liability or obligation to such Pension Plan; or
- (q) the loss by any of the Security of its status as a valid and perfected first priority security interest subject only to Permitted Encumbrances, if the Borrower or any Guarantor has failed to remedy this default within the earlier of ten (10) days from the date:
 - (i) the Borrower or any Guarantor becomes aware, using reasonable due diligence of such default; and

- (ii) Tandia delivers written notice of the default to the Borrower or any Guarantor.

13. Remedies of Tandia

Rights and Remedies. Upon the occurrence and during the continuance of an Event of Default, Tandia may, without notice or demand, do any or all of the following:

- (a) declare all Obligations immediately due and payable;
- (b) stop advancing money or extending credit for Borrower's benefit under this Commitment Letter or under any other Financing Document between Borrower and Tandia;
- (c) pursuant to the Security Documents, verify the amount of, demand payment of and performance under, and collect any accounts and general intangibles, in each case, forming part of the Collateral, settle or adjust disputes and claims directly with account debtors with respect to accounts forming part of the Collateral for amounts on terms and in any order that Tandia considers advisable, and notify any Person owing the Borrower or any Guarantor accounts forming part of the Collateral of Tandia's security interest in such accounts. The Borrower and Guarantors shall collect all such payments in trust for Tandia and if requested by Tandia, immediately deliver the payments to Tandia in the form received from the account debtor, with proper endorsements for deposit;
- (d) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its Security in such Collateral. Borrower and Guarantors shall assemble the Collateral if Tandia requests and make it available as Tandia designates. Tandia may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Encumbrance which appears to be prior or superior to its security interest in the Collateral and pay all expenses incurred. Borrower and each Guarantor grants Tandia a license to enter and occupy any of its premises, without charge, to exercise any of Tandia's rights or remedies;
- (e) apply to the Obligations any (i) balances and deposits of Borrower or any Guarantor it holds, or (ii) any amount held by Tandia owing to or for the credit or the account of the Borrower or any Guarantor;
- (f) seize, ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral;
- (g) place a "hold" on any account maintained with Tandia and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any control agreement or similar agreements providing control of any Collateral;
- (h) demand and receive possession of Borrower's and Guarantors' books and records forming part of the Collateral;
- (i) obtain from any court of competent jurisdiction an order for the sale or foreclosure of any or all of the Collateral;
- (j) appoint in writing a receiver or receiver and manager (a "**Receiver**") for all or any part of the Collateral who shall be vested with all of Tandia's rights and remedies under this Commitment Letter, at Law or in equity. Any such Receiver, with respect to responsibility for its acts, shall, to the extent permitted by applicable Law, be deemed to the agent of Tandia and not Tandia. Any such receiver or receivers so appointed shall have power:

- (i) to take possession of the Collateral or any part thereof and carry on the business of the Borrower or any Guarantor;
 - (ii) to borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Borrower or any Guarantor;
 - (iii) to further charge the Collateral in priority to its Security as security for money so borrowed; and
 - (iv) to sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as he shall determine.
- (k) obtain from any court of competent jurisdiction an order for the appointment of a Receiver or of any or all of the Collateral;
 - (l) realize on any or all of the Collateral and sell, lease, assign, give options to purchase, or otherwise dispose of and deliver any or all of the Collateral (or contract to do any of the above), in one or more parcels at any public or private sale, on such terms and conditions as Tandia may deem advisable and at such prices as it may deem best; and
 - (m) exercise all rights and remedies available to Tandia under the Financing Documents or at Law or equity, including all remedies provided under the *Personal Property Security Act* (Ontario) (including disposal of the Collateral pursuant to the terms thereof).

14. Representations

Each of the Credit Parties represents and warrants to Tandia that:

- (a) it has full power, authority and legal right to borrow in the manner and on the terms and conditions set out in this Commitment Letter and the other Financing Documents, to execute and deliver the acceptance of this Commitment Letter and to carry out the terms and conditions of this Commitment Letter and the other Financing Documents and each such document has been duly executed and delivered;
- (b) the execution and delivery of the acceptance of the Financing Documents and the carrying out of the terms of the Financing Documents do not violate any Law, do not violate any of its Organizational Documents, shall not result in the creation or imposition of any Encumbrance upon any of its Property other than as contemplated by the Financing Documents and have been (or will be) duly and validly authorized by it;
- (c) the Financing Documents as delivered are valid, binding and legally enforceable against it in accordance with their respective terms except to the extent that the enforcement thereof may be limited by bankruptcy, insolvency or similar Laws affecting the enforcement of creditor's rights generally;
- (d) no Event of Default has occurred and is continuing;
- (e) there are no labour matters, actions, suits or proceedings pending or threatened against it before any court or government department, commission, board or agency which, if determined adversely, would have a material adverse effect on its financial condition and it is not subject to any judgment, order, writ, injunction, decree or award, or to any restriction, rule or regulation (other than customary or ordinary course restrictions, rules and regulations consistent or similar with those imposed on other Persons engaged in

similar businesses) which would be reasonably be expected to have a Material Adverse Effect or which has not been stayed, or of which enforcement has not been suspended;

- (f) in the case of each Corporate Credit Party:
- (i) it has been duly incorporated, formed, amalgamated, merged or continued, as the case may be, and is validly subsisting or in good standing, as the case may be, under the Laws of its jurisdiction of incorporation, formation, amalgamation, merger or continuance, as the case may be and it is duly qualified and has all required licenses to carry on its business in each jurisdiction in which the nature of its business requires qualification except where any failure to be so qualified or licensed would not reasonably be expected to have a Material Adverse Effect;
 - (ii) it has the power and authority to own its Property and carry on its business as currently conducted and as currently proposed to be conducted by it;
 - (iii) it has obtained, made, or taken all consents, approvals, authorizations, declarations, registrations, filings, notices and other actions whatsoever required in connection with the execution and delivery by it of each of the Financing Documents to which it is a party, and the consummation of the transactions contemplated in the Financing Documents;
- (g) it has filed, or caused to be filed, all income tax returns and other material returns in respect of taxes required to be filed, has either paid, or made adequate provision for the payment of, all taxes which are due and payable, or has accrued such amounts in its financial statements for the payment of such taxes, except for taxes which are not material in amount, and which are not delinquent or if delinquent are being contested in good faith and through appropriate proceedings, and there is no material action, suit, proceeding, investigation, audit or claim now pending, or to the best of its knowledge after due inquiry threatened by any Governmental Authority regarding any taxes, nor has it agreed to waive or extend any statute of limitations with respect to the payment or collection of taxes;
- (h) it does not have any debt secured against the Property, other than Permitted Debt and it has not made any agreement, arrangement or transactions between it, on the one hand, and any associate of, affiliate of or other Person not dealing at arm's length with it, on the other hand, is in existence at the date hereof other than on terms comparable to those negotiated with an arm's length third party;
- (i) it shall have as of closing good and marketable title to the Collateral subject to Permitted Encumbrances, and that, other than as disclosed to Tandia in writing, it is the registered title holder to all Collateral and there is Person with an interest, legal, beneficial or otherwise, in or to the Collateral;
- (j) it shall have as of closing peaceful and undisturbed possession of all Real Property and there is no pending or, to its knowledge after due inquiry, threatened condemnation or expropriation proceeding relating to any such Real Property. All of the Real Property and the structures thereon and other material tangible assets owned, leased or used by the Credit Parties in the conduct of the business located at such Real Property are, to the best of the knowledge of the Credit Parties, and except as disclosed in reports delivered to Tandia prior to the date of the initial advance:
- (i) insured to the extent, and in a manner customary, in the industry in which the Credit Parties are engaged;

- (ii) as to the buildings on the Real Property, they are structurally sound with no known material defects and the Credit Parties have not received a notice from any Governmental Authority advising of any defects in the construction, state of repair or state of completion of any of the buildings or ordering or directing that any alterations, repairs, improvements or other work be done or relating to noncompliance with any building permit, building or land use by-law, ordinance or regulation or otherwise from any Governmental Authority which is the responsibility of the Credit Parties to correct and which remain outstanding;
 - (iii) in good operating condition and repair, subject to ordinary wear and tear and casualty;
 - (iv) not in need of material maintenance or repair except for ordinary, routine maintenance and repair the cost of which would not be material or as a result of casualty;
 - (v) sufficient for the operation of the business as presently conducted thereon; and
 - (vi) in conformity with all applicable Law and other requirements (including applicable zoning, environmental, motor vehicle safety, occupational safety and health Laws and regulations) relating thereto, except where the failure to comply or conform with any of the foregoing could not reasonably be expected to have a Material Adverse Effect;
- (k) no Person has any agreement or right to acquire an interest in or right of first refusal in respect of any Property or the Collateral.
- (l) It maintains insurance which is in full force and effect and which complies in all material respects with all of the requirements of the Financing Documents;
- (m) it has not violated or failed to comply with any applicable Law in any material manner, or any applicable order of any self-regulatory organization, or any judgment, decree or order of any court, applicable to the business except where any such violation or failure would not reasonably be expected to have a Material Adverse Effect
- (n) the conduct of its business is in conformity with all Laws, except where such non-conformities could not reasonably be expected to have a Material Adverse Effect;
- (o) it has not received any notice to the effect that, or otherwise been advised that, it is not in compliance with any applicable Law, and it does not know of any currently existing circumstances that are likely to result in the violation of any applicable Law, except, in each case, where such non-compliance or violation would not reasonably be expected to have a Material Adverse Effect;
- (p) all financial statements which have been furnished to Tandia in connection with this Commitment Letter are complete in all material respects and such financial statements fairly present in all material respects the financial position of the Credit Parties, as applicable as of the dates referred to therein and have been prepared in accordance with GAAP;
- (q) it has adopted all Pension Plans and Welfare Plans required by applicable Law and applicable collective bargaining agreements and each of such plans is in compliance in all material respects with such applicable Law and collective bargaining agreements (including, without limitation, all requirements relating to employee participation, funding,

- investment of funds, benefits and transactions with the Borrower and each Guarantor and Persons related to them);
- (r) it does not maintain nor is it obligated to contribute to any defined benefit Pension Plan;
 - (s) all information furnished by or on behalf of it to Tandia for purposes of, or in connection with, this Commitment Letter or any Financing Documents, or any other transaction contemplated by this Commitment Letter, including any information furnished in the future, is or will be true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances;
 - (t) there is no fact now known to it which has had, or could reasonably be expected to have, a Material Adverse Effect;
 - (u) all accounts of the Credit Parties that are due and owing for work or services performed or materials placed or furnished upon or in respect of the construction, completion, repair, renovation of the Real Property have been fully paid, and no Person is entitled to a lien under the *Construction Act* (Ontario) in respect of the Mortgaged Property;
 - (v) no Hazardous Substances are being stored on any of the Real Property or any adjacent property, nor have any such substances been stored or used on the Real Property or any adjacent property prior to its ownership, possession or control of the Real Property. Each of the Credit Parties agrees to provide written notice to Tandia immediately upon becoming aware that the Real Property or any adjacent property are being or have been contaminated with any Hazardous Substances. Each of the Credit Parties shall not permit any activities on the Real Property which directly or indirectly could result in the Real Property or any other property being contaminated with Hazardous Substances;
 - (w) except as disclosed in reports delivered to Tandia prior to the date of initial Borrowing, the Real Property does not contain any pollutants, dangerous substances, liquid waste, industrial waste, toxic substances, hazardous wastes, hazardous materials, Hazardous Substances or contaminants, and none of these substances have ever been released into the environment as a result of any of the activities conducted on the Real Property and future usage shall be limited to environmentally acceptable activities in compliance with all Requirements of Environmental Law;
 - (x) except as disclosed in reports disclosed to Tandia prior to the date of initial advance, there are no claims, actions, investigations, liens, prosecutions, notices, work orders, control orders, stop orders or directives, written or oral (collectively, "**Orders**") of any kind issued or pending by any third party, court or international, federal, provincial or municipal ministry, department or agency ("**Environmental Authority**") which enforce the Requirements of Environmental Laws with respect of any activities of the Credit Parties, or any Real Property, past or present, as they relate to any and all Requirements of Environmental Laws which could reasonably be expected to have a Material Adverse Effect and there are no circumstances, current or contemplated, which might give rise to any such Order; and
 - (y) except as disclosed in reports to Tandia delivered prior to the date of initial advance, the Real Property and its existing and prior uses comply and have at all times complied with Requirements of Environmental Laws.

The Credit Parties shall ensure that the representations and warranties above are true and correct at this time and upon any advance under the Credit Facilities.

15. Survival

The representations and warranties set out above shall be deemed to be repeated by the Credit Parties as of the date of each request for new advance by the Borrower except to the extent that such representation or warranty was given in respect of a specified date or period or where on or prior to such date:

- (a) the Borrower has advised Tandia in writing of a variation in any such representation or warranty; and
- (b) if such variation in the opinion of Tandia, is material to the Collateral or the liabilities, affairs, business, operations or condition (financial or otherwise) of the Credit Parties considered as a whole or could have, or be reasonably likely to result in, a Material Adverse Effect, Tandia has approved such variation.

All terms, conditions, representations and warranties of this letter shall survive the closing of the Credit Facilities contemplated and neither the preparation, nor registration or any documents related to the transaction shall bind Tandia to advance funds under this Commitment Letter or the other Financing Documents.

16. Waiver or Variation of Terms

No term or condition of the Commitment Letter or any other Financing Document may be waived or varied orally or by any course of conduct of any officer, employee or agent of Tandia. Any amendment to the Commitment Letter or any of the Financing Documents must be in writing and signed by a duly authorized officer of Tandia.

17. Credit Reporting

Each Credit Party consents to Tandia obtaining from any credit reporting agency or from any person such information as Tandia may require at any time, and consents to the disclosure at any time of any information concerning the Credit Parties to any credit grantor with whom the Credit Parties have financial relations or to any credit reporting agency.

18. Time of Essence

Time shall be of the essence of this Commitment Letter.

19. No Merger

It is understood and agreed that the execution and delivery of any of the Financing Documents shall in no way merge or extinguish this Commitment Letter or its terms and conditions. The terms and conditions of this Commitment Letter and the other Financing Documents shall continue in full force and effect.

20. General Indemnity

The Borrower and each Guarantor agrees to indemnify Tandia and its officers, directors, employees, solicitors, agents and affiliates, on a joint and several basis, from and against any and all claims, losses and liability arising or resulting from any of the Financing Documents. In no event shall Tandia be liable to the Borrower or any Guarantor for any direct, indirect or consequential damages arising under or in connection with any of the Financing Documents.

21. Successors and Assigns

This Commitment Letter and the other Financing Documents shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Commitment Letter and

the other Financing Documents may not be assigned, transferred or otherwise disposed of by the Borrower or any Guarantor without the prior written consent of Tandia, which consent may be arbitrarily withheld. Tandia may, without notice to and without the consent of the Borrower or any Guarantor, but without any additional cost to the Borrower prior to the occurrence and during the continuance of an Event of Default, assign, syndicate, securitize, transfer or grant participation interests in the whole or any part of this Commitment Letter, the Credit Facilities, the Financing Documents and any and all right, title, benefits, remedies and obligations relating thereto. The Borrower and each Guarantor agrees to co-operate with Tandia in connection with any such assignment, syndication, securitization, transfer or grant of participation interests including, without limitation, the delivery of an estoppel certificate in a form satisfactory to Tandia.

22. Set Off

Tandia may (but shall not be obligated), at any time, to apply any credit balance, whether or not then due, to which the Borrower or any Guarantor is entitled towards satisfaction of the obligations of the Borrower or any Guarantor under any of the Financing Documents.

23. Increased Costs

The Borrower shall reimburse Tandia for any additional cost or reduction in income arising as a result of (i) the imposition of, or increase in, taxes on payments due to Tandia hereunder (other than taxes on the overall net income of Tandia), (ii) the imposition of, or increase in, any reserve or similar requirements, (iii) (i) the imposition of, or change in, any other condition affecting the Credit Facilities imposed by any applicable Law or the interpretation thereof.

24. Release of Information

The Borrower and each Guarantor, as applicable, hereby irrevocably authorizes and directs its accountant (the "**Accountant**") to deliver all financial statements and other financial information concerning it to Tandia and agrees that Tandia and the Accountant may communicate with each other as to its business and financial affairs.

25. Legal and Other Expenses

The Borrower(s) shall pay (i) all reasonable legal fees and disbursements (on a solicitor and own client basis) in respect of legal advice and services to or on behalf of Tandia in connection with the Credit Facilities including: the preparation, negotiation and settlement of the Agreement, the preparation, issue and registration of the Financing Documents together with any amendments or restatements thereto from time to time; the enforcement and preservation of Tandia's rights and remedies; searches from time to time, including in connection with any advance; and (ii) all reasonable fees and expenses relating to appraisals, insurance consultation, environmental investigation, credit reporting and other due diligence and to responding to demands of any Governmental Authority; whether or not the documentation is completed or any funds are advanced under the Credit Facilities.

26. Miscellaneous

Accounting terms shall (to the extent not defined in this Commitment Letter) be interpreted in accordance with GAAP and all financial statements and information provided shall be prepared in accordance with those principles. Unless otherwise specified herein, all amounts and values referred to in this Agreement shall be calculated in Canadian Dollars. Notwithstanding the foregoing, all payments made hereunder shall be made in the currency in respect of which the obligation requiring such payment arose. The division of this Agreement into Articles and Sections and the provision of a Table of Contents and the insertion of headings are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement. All references to Sections, Subsections, Paragraphs, Articles and Schedules are to Sections, Subsections, Paragraphs and Articles of and Schedules to this Commitment Letter. The words "hereto", "herein", "hereof", "hereunder", "this Commitment Letter" and similar expressions mean and refer to this Commitment Letter. Where the context so requires, words importing the singular include the plural and vice versa, and words

importing gender include the masculine, feminine and neuter genders. The use of the term “including” in this Agreement shall be deemed to mean “including, without limitation”. Whenever in this Agreement reference is made to a statute or regulations made pursuant to a statute, such reference shall, unless otherwise specified, be deemed to include all amendments to such statute or regulations from time to time and all statutes or regulations which may come into effect from time to time substantially in replacement for the said statutes or regulations

27. Conflict, Paramountcy

In the case of any inconsistency or conflict between the provisions of this Commitment Letter, and the provisions of the other Financing Documents, the provisions of this Commitment Letter shall prevail. In the event of any inconsistency or conflict between the terms of this Schedule A and the body of the Commitment Letter to which it is attached, the terms of the body of the Commitment Letter shall prevail and govern.

28. Governing Law

This Commitment Letter shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. The parties hereto irrevocably submit to the non-exclusive jurisdiction of the courts of the Province of Ontario and hereby irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such court. The Credit Parties hereby irrevocably waive, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of such action or proceeding. The parties hereto hereby irrevocably consent to the service of any and all process in such action or proceeding by the delivery of such process to any Credit Parties at the address provided for in the Notices section below.

29. Consent to Disclosure

- (a) Each Credit Party consents to and acknowledges that it is aware that credit, financial and personal inquiries regarding each Credit Party and individuals connected to Credit Parties (including directors, officers, shareholders and individuals acting on behalf of a Credit Party) may be gathered, made, maintained and/or used at any time in connection with: (i) initial and ongoing credit assessment, (ii) any funding of the Credit Facilities by investors or participants or any assignment or sale of the Credit Facilities by Tandia, and (iii) the enforcement of any remedies that Tandia may have under the Credit Facilities, (iv) compliance and risk monitoring purposes and each Credit Party consents to the making of any such inquiries by or on behalf of Tandia and consents, without restriction and without further notice to or further consent of the such Credit Party, to disclosure of any such information to any prospective investor, participant, assignee or purchaser of all or any part of the Credit Facilities. Each Credit Party irrevocably waives, to the extent permitted under applicable law, any and all rights it may have to notice of or to prohibit such disclosure, including, without limitation, any right of privacy.
- (b) Tandia may collect, use, transfer and disclose information for the following purposes and as follows:
 - (i) Providing information respecting other services;
 - (ii) Taking any compliance action (including actions taken to comply with laws, international guidance, internal policies or procedures, requirements from judicial, administrative, law enforcement and regulatory authorities);
 - (iii) Conducting financial crime risk management activity, including verifying the identification of the Credit Party and related individuals, screening, monitoring and investigation activity;

- (iv) Judicial, administrative, public or regulatory bodies, as well as governments, tax, revenue and monetary authorities, examiners, monitors, securities or futures exchanges, courts, central banks or law enforcement bodies with jurisdiction over Tandia.
- (c) Tandia may collect, transfer and disclose information for these purposes from and to sub-contractors, agents and service providers within Canada and in other jurisdictions.
- (d) Before providing Tandia with personal information respecting any connected individual, the Credit Party will ensure that it has provided all necessary disclosures to, and obtained any necessary consents from, such individuals in connection with the collection, use and disclosure of such information by Tandia.

30. Electronic Communications and Electronic Signatures

- (a) Each Credit Party hereby authorizes Tandia to accept Electronic Communications and Electronic Signatures from the Credit Parties in relation to this Agreement and the other Financing Documents and hereby consent to receiving commercial electronic messages from and on behalf of Tandia and any agreement, instruction, document, information, disclosure, notice or other form of communication from Tandia by Electronic Communication.
- (b) Each Credit Party agrees that any Electronic Communication, including any Electronic Signature associated with such Electronic Communication, which Tandia receives from a Credit Party or in a Credit Party's name, or which appears to be from a Credit Party or in its name, will be considered to be duly authorized and binding upon that Credit Party (whether or not that Electronic Communication was actually from or authorized by that Credit Party) and Tandia will be authorized to rely and act upon any such Electronic Communication, including any Electronic Signature associated with the Electronic Communication, even if it differs in any way from any previous Electronic Communication sent to Tandia.
- (c) Each Credit Party acknowledges that: (i) the form, format and delivery of each Electronic Communication will permit it to retain, store and subsequently access and retrieve such Electronic Communication without the requirement of any specialized or proprietary equipment or software from Tandia; and (ii) it is each Credit Party's responsibility to acquire and maintain the necessary computer equipment and software to deliver, receive, store, retain and subsequently access each Electronic Communication.
- (d) Each Credit Party acknowledges and agrees that Tandia's methods of storing, maintaining and retrieving any Electronic Communication, including any Electronic Signatures associated with such Electronic Communication, and Tandia's data systems, maintain the integrity of the Electronic Communication. If, for any reason, an Electronic Communication stored in Tandia's data systems differ from a Credit Party's, such Credit Party acknowledges and agrees that the version stored on Tandia's data systems shall prevail over any inconsistency. In this regard, each Credit Party acknowledges and agrees that Electronic Communications maintained by Tandia will be admissible in any legal or other proceedings as conclusive evidence as to the contents of those Electronic Communications in the same manner as an original paper document, and that further proof of our records system integrity is not required (the integrity of Tandia's records system is hereby acknowledged and agreed by each Credit Party) and each Credit Party hereby waives any right to object to the introduction of any such Electronic Communications into evidence. To the fullest extent permitted by applicable law, each Credit Party waives any defence, or waiver of liability, based on the absence of a written document in paper format, signed manually. Each Credit Party will keep its own records of all Electronic

Communications for a period of 7 years (unless otherwise stipulated by local regulation) and will produce them to Tandia upon request.

- (e) At Tandia's discretion, it may require: (i) Electronic Communications be delivered using technology acceptable to Tandia including the use of a secure Electronic Signature, and (ii) any agreement, instruction, document, information, disclosure, notice or other form of communication from a Credit Party to be manually signed and/or delivered to Tandia in paper format. If Tandia requires that a Credit Party acknowledge its agreement to this Agreement or any Financing Document by clicking the appropriate button, the Credit Party will follow any instructions that Tandia provides to indicate the Credit Party's agreement (which may include typing the Credit Party's name and/or clicking "I Agree" or similar button).
- (f) When a Credit Party's handwritten or Electronic Signature is delivered by facsimile, email or other electronic or digital transmission, such transmission shall constitute delivery of an executed copy of this Agreement or relevant Financing Document. If a Credit Party uses an Electronic Signature to indicate its agreement, such Credit Party shall ensure that its Electronic Signature is attached to or associated with the relevant Electronic Communication.

31. Notices

Any notice, request or other communication contemplated herein which Tandia or a Credit Party may be required or may desire to give shall be in writing and may be sent either by electronic transmission (facsimile or email) or hand delivery or first class registered mail postage prepaid to, in the case of a Credit Party, the number or address for electronic communication that appears on Tandia's records, and to, in the case of Tandia, the number and address listed on the front page of this Agreement. Any such notice, request or other communication shall be deemed to have been effectively given, made and received: (a) transmitted with receipt confirmed in the case of electronic transmission if such transmission was made on or before 5:00 p.m. (Toronto time) on that Business Day, failing which it shall be deemed to have been effectively given, made and received on the next following Business Day, (ii) when received if sent by hand delivery on or before 5:00 p.m. (Toronto time) on a Business Day, failing which it shall be deemed to have been effectively given, made and received on the next following Business Day, or (iii) five (5) days after deposit in the mail if so mailed, but any notice, request or other communication to be given or made during a strike, lock-out or other labour disturbance at the post office or during an actual or threatened interruption in the mail service shall be hand delivered or sent by electronic transmission and not mailed. Any party hereto may change the address to which all notices, requests and other communications are to be sent to it by giving written notice of such address change to the other parties in conformity with this paragraph, but such change shall not be effective until notice of such change has been received by the other parties.

32. Joint and Several Obligations

If more than one Person, firm or corporation signs this Agreement as a Borrower, each party is jointly and severally liable hereunder, and Tandia may require payment of all amounts payable under this Agreement from any one of them, or a portion from each, but Tandia is released from any of its obligations by performing that obligation to any one of them.



SCHEDULE B – DEFINITIONS

For the purpose of the Commitment Letter (including the Schedules attached thereto), the following terms shall have the meanings indicated below:

“Borrowing” means each use of the Credit Facilities and all such usages outstanding at any time are **“Borrowings”**.

“Business Day” means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario.

“Change of Control” means the failure of the shareholders or other equity holders of the Corporate Credit Parties as of the date of execution of this Commitment Letter to own the shares or other outstanding equity of the Credit Parties, or to have the right, directly or indirectly, to nominate or appoint a majority of the directors to the board of directors of the Corporate Credit Parties, by contract or otherwise.

“Collateral” means all Property subject to the Security Documents.

“Commitment Letter” means the letter from Tandia to the Borrower to which this Schedule is attached, together with this Schedule, and includes all amendments and replacements thereof.

“Corporate Distributions” means any payments to any shareholder or other equity holder, director or officer, or to any associate or holder of subordinated debt, or to any shareholder, director or officer of any associate or holder of subordinated debt, including, without limitation, bonuses, dividends, interest, salaries or repayment of debt or making of loans to any such Person, but excluding salaries to officers or other employees in the ordinary course of business;

“CRA” means the Canada Revenue Agency.

“Debt Service Coverage” means EBITDA of the Borrower *minus* all withdrawals *divided by* the principal and interest payments on all long-term debt and leases. For the purposes of the foregoing calculation, the term “withdrawals” shall include any withdrawal of funds from the Borrower including, without limitation, all dividends, bonuses, payments and/or advances to non-arm’s length parties, repayment of loans to non-arm’s length parties.

“Draw Period” means the period of time from the date of acceptance of the Commitment Letter to and including the day immediately preceding the Conversion Date.

“Drawdown Date” means the date of any Borrowing, or such other date that the Borrower and Tandia may mutually agree to in writing from time to time.

“Electronic Communication” means any agreement, instruction, document, information, disclosure, notice or other form of communication that is sent or stored by means of any electronic or other digital transmission.

“Electronic Signature” means a signature that consists of one or more letters, characters, numbers or other symbols in digital form incorporated in, attached to or associated with an Electronic Communication and includes a secure electronic signature as may be prescribed by applicable law or otherwise required by Tandia.

“Encumbrance” means, in respect of any Person or Property, any registration, mortgage, debenture, pledge, hypothec, lien, charge, trust deed, assignment by way of security, hypothecation or security interest granted or permitted by that Person or arising by operation of law, in respect of any of that Person’s Property, or any consignment or capital lease of property by that Person as consignee or lessee or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or obligation, any agreements, leases, options, easements, rights of way, restrictions, executions, permissions, caveats, instruments or other encumbrances (including, without limitation, notices or other registrations in respect of any of the foregoing) against any Property or any part thereof and **“Encumbrances”**, **“Encumbrancer”**, **“Encumber”** and **“Encumbered”** shall have corresponding meanings.

“Financial Assistance” means, without duplication and with respect to any Person, all loans granted by that Person and contingent obligations incurred by that Person for the purpose of, or having the effect of, providing financial assistance to another Person or Persons, including, without limitation, letters of guarantee, letters of credit, legally binding comfort letters or indemnities issued in connection with them, endorsements of bills of exchange (other than for collection or deposit in the ordinary course of business), obligations to purchase assets regardless of the delivery or non-delivery of those assets and obligations to make advances or otherwise provide financial assistance to any other entity, and for greater certainty **“Financial Assistance”** shall include any guarantee of any third party lease obligations or any other obligation other than in the normal course of the business of the Borrower.

“Financing Documents” means the present Commitment Letter, the Security Documents and all other documents, instruments, certificates and contracts that the Borrower or an officer of the Borrower or a Guarantor or an officer of a Guarantor, as applicable, has signed and delivered in accordance herewith, directly or indirectly, or which are mentioned or contemplated in these presents or in such documents, instruments, certificates or contracts.

“GAAP” means, generally accepted accounting principles in effect in Canada from time to time applied consistently, including the International Financial Reporting Standards.

“Governmental Authority” means the government of any nation, province, territory, municipality, state or other political subdivision of any nation, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, or the application, enforcement, or interpretation of Law, including any central bank or other federal or provincial regulatory body.

“Guarantors” means any Person which, on the closing date or at any time thereafter, is required to become a guarantor of the Obligations of the Borrower to Tandia and **“Guarantor”** shall mean any one of them.

“Hazardous Substance” means any substance, product, waste, pollutant, material, chemical, contaminant, dangerous good, dangerous substance, liquid waste, industrial waste, radioactive waste, toxic substance, hazardous substance or material, ozone-depleting substance, or other material, including any constituent of any of them, which is or becomes listed, regulated, or addressed under any Requirements of Environmental Law, including, without limitation, asbestos, petroleum and polychlorinated biphenyls.

“Law” means all laws, (including the common law), by-laws, ordinances, rules, statutes, regulations, treaties, orders, rules, judgments and decrees, and all official directives, rules, guidelines, notices, approvals, orders, policies and other requirements of any Governmental Authority in each case having the force of law.

“Lease” means an advance of credit by Tandia to the Borrower by way of a **[Master Lease Agreement, Master Leasing Agreement, Leasing Schedule, Equipment Lease, Conditional Sales Contract]**, or pursuant to an Interim Funding Agreement or an Agency Agreement, in each case issued to the Borrower.²

² NTD: Tandia to advise how leases are documented

“Material Adverse Effect” means a material adverse effect or a series of adverse effects, none of which are material in and of itself but which, cumulatively, in the reasonable opinion of Tandia:

- (a) constitutes a material adverse change in the financial condition, business, properties or operations of the Borrower and the Corporate Guarantors, taken as a whole;
- (b) constitutes a material adverse change to the Secured Properties or the Collateral;
- (c) could materially impair the ability of the Borrower or the applicable Corporate Guarantor to timely and fully perform its obligations under any Financing Documents to which it is a party; or
- (d) could materially impair the ability of Tandia to receive the repayment of the Obligations in full and/or enforce its rights and remedies under any Financing Documents.

“Obligations” means the Credit Parties’ obligations to pay when due any debts, principal, interest, fees, Tandia expenses, any prepayment penalty and other amounts each of the Credit Parties owes to Tandia now or later under this Commitment Letter, or the other Financing Documents, including, without limitation, all obligations relating to any credit card arrangements and interest accruing under the Financing Documents after insolvency proceedings begin and debts, liabilities, or obligations under the Financing Documents of the Borrower or a Guarantor assigned to Tandia, and to perform Tandia’s or any Guarantor’s duties under the Financing Documents.

“Organizational Documents” means, with respect to any Person, that Person’s articles or other charter documents, by-laws, unanimous shareholder agreement, partnership agreement, limited partnership agreement, joint venture agreement, operating agreement or trust agreement, as applicable, and any and all other similar agreements, documents and instruments relative to that Person.

“Pension Plan” means a “pension plan” or “plan” which is subject to the funding requirements of the *Pension Benefits Act* (Ontario), the *Income Tax Act* (Canada), or applicable pension benefits legislation in any other jurisdiction which is applicable to the Borrower’s employees.

“Permitted Corporate Restructuring” means any re-organization or restructuring of any one or more of the Borrower and the Corporate Guarantors and their subsidiaries (which re-organization or restructuring may involve, without limitation, amalgamations, mergers, consolidations, contributions to new subsidiaries, liquidations and wind-downs) provided that (A) after such re-organization or restructuring (i) the Secured Properties remain wholly-beneficially owned by the Borrower and legally owned by a Guarantor; (ii) the Guarantors remain, directly or indirectly, wholly-owned by the Borrower; and (iii) after giving effect to the re-organization or restructuring, the ability of the Borrower or the Corporate Guarantors to fully perform their respective obligations under the Financing Documents to which they are a party and repay the Obligations in full as they become due, is not materially and adversely affected; and (B) Tandia has received (i) prior written notice of such re-organization or restructuring (which notice shall contain details of the contemplated transaction) more than thirty (30) days before the contemplated transaction date; and (ii) officer’s certificates, resolutions and constating documents in respect of the new / resulting entities, in form and substance satisfactory to Tandia.

“Permitted Debt” means:

- (a) Debt under the Financing Documents;
- (b) Debt in respect of purchase money security interests granted by the Borrower or any one of the Corporate Guarantors on the Collateral and under capital leases entered into by the Borrower or any one of the Corporate Guarantors relating to the Secured Properties in an outstanding amount not to exceed at any time \$500,000 in the aggregate;

- (c) Debt owing to other lenders provided such debt is not secured by an Encumbrance in and to any of the Secured Properties other than Permitted Encumbrances; and
- (d) Debt consented to in writing by Tandia.

“Permitted Encumbrances” means, with respect to any Person:

- (a) liens arising by operation of law for amounts not yet due or delinquent, minor encumbrances on real property such as easements and rights of way which do not materially detract from the value of such property, and security given to municipalities and similar public authorities when required by such authorities in connection with the operations of the Borrower in the ordinary course of business;
- (b) property estate taxes not yet due and payable, utility easements and other similar rights which, in Tandia’s opinion, will not, in the aggregate, materially and adversely impair the marketability of the Mortgaged Property or the use of the Mortgaged Property for the purpose for which it is held and minor irregularities and defects in title approved by Tandia;
- (c) purchase money security interest as defined in the *Personal Property Security Act (Ontario)* in the personal property of the Borrower, in an aggregate amount not to exceed \$[amount]; and
- (d) security granted in favour of Tandia under the Security Documents.

“Person” is to be broadly interpreted and includes an individual, a corporation, a limited liability company, an unlimited liability company, a partnership, a limited partnership, a trust, an incorporated organization, a joint venture, the government of a country or any political subdivision of a country, or an agency or department of any such government, any other Governmental Authority and the executors, administrators or other legal representatives of an individual in such capacity.

“Personal Property” means all of the “personal property” of each Credit Party, as such term is defined in the *Personal Property Security Act (Ontario)* and includes chattel paper, documents of title, goods, instruments, intangibles, money, investment property and fixtures but does not include building materials that have been affixed to real property.

“Prime Rate” means the annual rate of interest which Tandia establishes as the reference rate of interest to determine interest rates it will charge at such time for residential loans in Canadian dollars, calculated daily and payable monthly, such rate to be adjusted automatically and without the necessity of any notice to the Borrower upon each change to such rate.

“Property” means, with respect to any Credit Party, all or any portion of that Credit Party’s undertaking, property and assets, both real and personal, including, for greater certainty, any Personal Property, any Real Property, and any share in the capital of a corporation or ownership interest in any other Person.

“Real Property” means any Property of any Credit Party which is not Personal Property, and includes, for greater certainty, any freehold or leasehold interest in land or real estate.

“Requirements of Environmental Law” means all applicable Laws in any jurisdiction in which the Borrower has operations or assets, which relate to environmental or occupational health and safety matters relevant to the assets and undertaking of the Borrower and the intended uses thereof, including, without limitation, all Law relating to:

- (a) the protection, preservation or remediation of the natural environment (the air, land, surface water or groundwater);

- (b) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation;
- (c) consumer, occupational or public safety and health; and
- (d) Hazardous Substances.

“Sanctions” means all economic or financial sanctions, sectoral sanctions, secondary sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the government of Canada or the United States or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom, or any other relevant sanctions authority with jurisdiction over any Credit Party or any of their respective subsidiaries or affiliates.

“Welfare Plan” means any medical, health, hospitalization, disability, bonus, deferred compensation, share purchase, supplemental pension or retirement plan, insurance or other employee benefit or welfare plan, agreement or arrangement applicable to employees of the Borrower;

SCHEDULE C
FORM OF COMPLIANCE CERTIFICATE

(Borrower Letterhead)

Compliance Certificate

To: Tandia Financial Credit Union Limited.
3455 North Service Road
Unit 100
Burlington, Ontario
L7N 3G2

The undersigned, Noorallah Nawrozada [**TITLE of AUTHORIZED OFFICER**], of [NAME OF BORROWER(s)] ("**Borrower**"), pursuant to the provisions of the Commitment Letter dated as of [DATE], among, *inter alios*, Tandia and Borrower(s) (as amended, restated, supplemented, replaced or otherwise modified from time to time the "**Agreement**"), **DOES HEREBY CERTIFY** in [**his/her**] capacity as an authorized officer of Borrower(s) and not in [**his/her**] personal capacity that:

1. The Financial Statements attached hereto fairly and accurately represent the Credit Parties' financial condition at the end of the particular accounting period set out in such Financial Statements, as well as the Credit Parties' operating results during such accounting period, subject to year-end audit adjustments;
2. A review of such Financial Statements and of the activities of the Credit Parties' during the period covered by such Financial Statements has been made under my supervision with a view to determining whether the Credit Parties have fulfilled all of their obligations;
3. From the commencement of the accounting period set out in such Financial Statements to the date hereof:
 - (a) each of the Credit Parties has fulfilled each of its respective obligations under each of the Loan Documents to which it is a party;
 - (b) there has been no Default or Event of Default under the Agreement;
 - (c) the Borrower(s) [**is/are**] not aware of any event or circumstance which could reasonably have or could reasonably have had a Material Adverse Effect;
 - (d) the representations and warranties contained in the Agreement and the other Loan Documents are correct in all material respects on and as of the date hereof as though made on and as of such date, other than any such representation or warranty which relates to a specified prior date and except to the extent that Tandia has been notified in writing by the

Borrower(s) that any representation or warranty is not correct and Tandia has explicitly waived in writing compliance with such representation or warranty;

(e) the Credit Parties have been in full compliance with all covenants set out in the Agreement, including Financial Covenants as evidenced by the calculations attached hereto as Attachment 1;

(f) no change in GAAP or in the application thereof has occurred since the date of the most recent audited annual Financial Statements of the Borrower(s) delivered to Tandia **[If a change has occurred, specify the details of the change and its effect on the accompanying Financial Statements]**; and

[if any of the foregoing is incorrect, revise wording accordingly to include particulars of any variation.]

4. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Agreement.

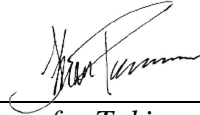
IN WITNESS WHEREOF, the undersigned has executed this Compliance Certificate on behalf of Borrower as of the 13th. day of April., 20 23.

By: 

Name: Noorallah Nawrozada

Title of Authorized Officer

This is Exhibit "C" referred to in the Affidavit of Dawood Khan sworn before me, this 28th, day of November, 2024.



Commissioner for Taking Affidavits

THIS GENERAL SECURITY AGREEMENT (as amended, restated, supplemented, replaced or otherwise altered, from time to time, this "**Agreement**") is made as of May 2, 2023.

BETWEEN:

TANDIA FINANCIAL CREDIT UNION LIMITED

(herein called "**Tandia**"),

- and -

2492029 ONTARIO INC.

(herein called the "**Debtor**"),

WHEREAS:

- A.** 24920229 Ontario Inc. (the "**Borrower**") has entered into the Commitment Letter (as defined below), guaranteed by the Debtor pursuant to which Tandia has agreed to make certain extensions of credit available to the Borrower (the "**Loans**"); and
- C.** to secure the payment and performance of the Obligations (as defined below), the Debtor has agreed to execute and deliver this Agreement to Tandia and to grant a security interest in favour of Tandia in respect of the Collateral in accordance with the terms of this Agreement.

THIS AGREEMENT WITNESSES that, in consideration of the promises contained herein and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Debtor hereby agrees with Tandia as follows:

ARTICLE 1 - INTERPRETATION

1.01 Defined Terms

Subject to Section 1.09, all capitalized terms which are used herein which are not otherwise defined herein shall have the respective meanings ascribed thereto in the Commitment Letter. In this Agreement, unless there is something in the context or subject matter inconsistent therewith,

"**Applicable Laws**" means, with respect to any Person (as defined herein), property, transaction or event, all present or future statutes, regulations, rules, orders, ordinances, codes, treaties, conventions, judgments, awards, determinations and decrees of any municipality or governmental or other public authority, fiscal or monetary body or court of competent jurisdiction, in each case, having the force of law in any applicable jurisdiction.

"**Collateral**" means the undertaking of the Debtor and all real and personal property and assets now owned or hereafter acquired by the Debtor, wheresoever located, including, without limitation, the property and assets of the Debtor referred to in Section 2.02; provided always that the term "Collateral" when used herein shall not include any consumer goods of the Debtor. Any reference to "Collateral" herein shall be deemed to be a reference to the Collateral or any part thereof.

"**Commitment Letter**" means the commitment letter made as of March 31, 2023, between, *inter alios*, the Borrower and Tandia, as the same may be amended, restated, modified or replaced from time to time, and pursuant to which Tandia established certain credit facilities in favour of the Borrower.



"Encumbrance" means any encumbrance of any kind whatsoever, choate or inchoate, whether arising by contract, statute or otherwise, including without limitation a security interest, mortgage, assignment, lien, hypothec, pledge, hypothecation, charge, trust or deemed trust, conditional sale agreement, lease or other title-retention agreement.

"Obligations" shall mean all loans, advances, debts, expense reimbursement, fees, liabilities, and obligations for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or amounts are liquidated or determinable) owing by the Debtor and any other Obligor to Tandia, of any kind or nature, present or future, whether or not evidenced by any note, agreement or other instrument, arising under or in connection with any of the Financing Documents, and all covenants and duties regarding such amounts. This term includes all principal, interest, fees, charges, expenses, reasonable legal fees and any other sum chargeable to the Debtor under any of the Financing Documents, and all principal and interest due in respect of the Loans (both pre- and post-application interest) and all obligations and liabilities of any guarantor under any guarantee of the Obligations.

"Obligors" means, collectively, the Debtor and each individually is an **"Obligor"**.

"Permitted Encumbrances" means any one or more of the following with respect to the property and assets of the Debtor:

- (a) liens for taxes, assessments or governmental charges or levies not at the time due and delinquent or the validity of which are being contested in good faith by proper legal proceedings and in respect of which an amount in cash sufficient to pay such taxes, assessments, charges or levies shall have been deposited with a court having jurisdiction or with the applicable taxing or assessing authority or with Tandia, or a surety bond, satisfactory to Tandia acting reasonably, in such amount shall have been delivered to and deposited with Tandia;
- (b) the lien of any judgment rendered or claim filed which is being contested in good faith by proper legal proceedings and in respect of which an amount in cash sufficient to pay such judgment or claim shall have been deposited with a court having jurisdiction or with Tandia, or a surety bond, satisfactory to Tandia acting reasonably, in such amount shall have been delivered to and deposited with Tandia;
- (c) undetermined or inchoate liens and charges incidental to construction or current operations which have not at such time been filed pursuant to law or which relate to obligations not yet due or delinquent;
- (d) the right reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, licence, franchise, grant or permit acquired by the Debtor, or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (e) the Encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, surety or appeal bonds, costs of litigation when required by law and public and statutory obligations, liens or claims incidental to construction, mechanics', warehouseman's, carriers' and other similar liens;
- (f) security given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the operations of the Debtor, all in the ordinary course of its business;
- (g) Encumbrances on any property hereafter or previously acquired by the Debtor granted to secure the indebtedness of the Debtor for the acquisition price (including any costs of delivery and installation) or the repayment of moneys borrowed to pay such acquisition

price of such property, or to secure any extension, renewal or replacement of such indebtedness provided that the principal amount thereof is not increased;

- (h) security given to Tandia; and
- (i) the Encumbrances listed in any **Schedule A** attached hereto, together with any other Encumbrances expressly permitted by the provisions hereof or otherwise approved in writing by Tandia;

provided that nothing in this definition or this Agreement shall (A) be construed as evidencing an intention or agreement on the part of Tandia that the security interest or the Obligations hereunder be or have been subordinated to any such Permitted Encumbrance, or (B) cause any such subordination to occur.

“PPSA” means the *Personal Property Security Act* (Ontario) as the same may from time to time hereafter be amended or any legislation that may be substituted therefor as the same may from time to time be amended.

1.02 Other Usages

References to “this Agreement”, “hereof”, “herein”, “hereto” and like references refer to this General Security Agreement and not to any particular Article, Section or other subdivision of this Agreement.

1.03 Number and Gender

Where the context so requires, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

1.04 Headings

The insertion of headings in this Agreement is for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.05 Currency

Unless otherwise specified herein, all statements of or references to dollar amounts in this Agreement shall mean lawful money of Canada.

1.06 Applicable Law and Attornment Clause

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The parties hereby attorn to the courts of the Province of Ontario and agree that those courts shall have non-exclusive jurisdiction to determine all disputes relating to this Agreement.

1.07 Prohibited Provisions

In the event that any provision or any part of any provision hereof is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by a court, this Agreement shall be construed as not containing such provision or such part of such provision and the invalidity of such provision or such part shall not affect the validity of any other provision or the remainder of such provision hereof, and all other provisions hereof which are otherwise lawful and valid shall remain in full force and effect.

1.08 Time of the Essence

Time shall in all respects be of the essence of this Agreement, and no extension or variation of this Agreement or any obligation hereunder shall operate as a waiver of this provision.

1.09 Terms Defined by the PPSA

Unless there is something in the context or subject-matter inconsistent therewith, words and phrases not otherwise herein defined that are defined in the PPSA shall have the meanings ascribed thereto respectively by the PPSA.

ARTICLE 2 - SECURITY INTEREST

2.01 Grant of Security Interest

As general, continuing and collateral security for the due and timely payment and performance of all Obligations, the Debtor hereby mortgages, charges, pledges, assigns, transfers and sets over to Tandia and grants to Tandia a security interest in the Collateral.

2.02 Description of Collateral

The following undertaking, property and assets of the Debtor shall be subject to the security interest in favour of Tandia created by this Agreement:

(a) **Accounts**

all debts, amounts, claims and moneys which now are, or which may at any time hereafter be, due or owing to or owned by the Debtor, whether or not earned by performance including, without limitation, all intercompany loans and advances made by the Debtor to its affiliates; all securities, mortgages, bills, notes and other documents now held or owned, or which may be hereafter taken, held or owned, by or on behalf of the Debtor, in respect of the said debts, amounts, claims and moneys or any part thereof; and all books, documents and papers recording, evidencing or relating to the said debts, amounts, claims and moneys or any part thereof, all of which are herein called the "**Accounts**";

(b) **Inventory**

all goods or chattels now or hereafter forming the inventory of the Debtor including, without limitation, all goods, merchandise, raw materials, work in process, finished goods, goods held for sale or resale or lease or that have been leased or that are to be, or have been, furnished under a contract of service, and goods used in or procured for packing or packaging, all of which are herein called the "**Inventory**";

(c) **Equipment**

all equipment now owned or hereafter acquired by the Debtor, including, without limitation, all machinery, fixtures, plant, tools, furniture, chattels, vehicles of any kind or description including, without limitation, motor vehicles, parts, accessories installed in or affixed or attached to any of the foregoing, all drawings, specifications, plans and manuals relating thereto, and any other tangible personal property which is not Inventory, all of which are herein called the "**Equipment**";

(d) **Intangibles**

all intangible property now owned or hereafter acquired by the Debtor and which is not Accounts including, without limitation, all contractual rights, goodwill, patents, trademarks,

trade names, copyrights and other intellectual property of the Debtor and all other choses in action of the Debtor of every kind, whether due or owing at the present time or hereafter to become due or owing, all of which are herein called the "**Intangibles**";

(e) **Documents of Title**

any writing now or hereafter owned by the Debtor that purports to be issued by or addressed to a bailee and purports to cover such goods and chattels in the bailee's possession as are identified or fungible portions of an identified mass, whether such goods and chattels are Inventory or Equipment, and which writing is treated in the ordinary course of business as establishing that the person in possession of such writing is entitled to receive, hold and dispose of the said writing and the goods and chattels it covers, and further, whether such writing is negotiable in form or otherwise, including bills of lading and warehouse receipts, all of which are herein called the "**Documents of Title**";

(f) **Money**

all money now or hereafter owned by the Debtor, whether such money is authorized or adopted by the Parliament of Canada as part of its currency or by any foreign government as part of its currency, all of which are herein called the "**Money**";

(g) **Chattel Paper**

all present and future agreements made between the Debtor as secured party and others which evidence both a monetary obligation and a security interest in or a lease of specific goods, all of which are herein called the "**Chattel Paper**";

(h) **Instruments**

all present and future bills, notes and cheques (as such are defined pursuant to the *Bills of Exchange Act* (Canada)) of the Debtor, and all other writings of the Debtor that evidence a right to the payment of money and are of a type that in the ordinary course of business are transferred by delivery without any necessary endorsement or assignment and all letters of credit and advices of credit of the Debtor provided that such letters of credit and advices of credit state that they must be surrendered upon claiming payment thereunder, all of which are herein called the "**Instruments**";

(i) **Investment Property**

all present and future investment property held by the Debtor, including securities, security entitlements, securities accounts, future contracts, future accounts, shares, options, rights, warrants, joint venture interests, interests in limited partnerships, trust units, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Debtor in property or in an enterprise or which constitute evidence of an obligation of the issuer; and all substitutions therefor and, subject to Section 2.06, dividends and income derived therefrom, all of which are herein called the "**Investment Property**";

(j) **Documents**

all documents, including, without limitation, all books, invoices, letters, papers and other records, in any form evidencing or relating to the Collateral, all of which are herein called the "**Documents**";

(k) **Proceeds**

all property in any form derived directly or indirectly from any dealing with the Collateral or the proceeds therefrom, including, without limitation, property that indemnifies or compensates for the expropriation, destruction or damage of the Collateral or the proceeds therefrom, all of which are herein called the "**Proceeds**";

(l) **Leaseholds**

subject to Section 2.05, all leases, now owned or hereafter acquired by the Debtor as tenant (whether oral or written) or any agreement therefor, all of which are herein called the "**Leaseholds**"; and

(m) **Undertaking**

all present and future personal property, business, and undertaking of the Debtor not being Accounts, Inventory, Equipment, Intangibles, Documents of Title, Money, Chattel Paper, Instruments, Investment Property, Documents, Proceeds or Leaseholds, all of which are herein called the "**Undertaking**".

The Accounts, Inventory, Equipment, Intangibles, Documents of Title, Money, Chattel Paper, Instruments, Investment Property, Documents, Proceeds, Leaseholds and Undertaking are herein collectively called the "**Collateral**".

2.03 Further Description of Collateral

Without limiting the generality of the description of Collateral as set out in Section 2.02, for greater certainty the Collateral shall include all present and future personal property of the Debtor located on or about or in transit to or from the location(s) set out in **Schedule "B"** hereto.

2.04 Attachment of Security Interest

The parties hereby acknowledge that:

- (a) value has been given;
- (b) the Debtor has rights in the Collateral; and
- (c) the parties have not agreed to postpone the time for attachment of the security interest created by this Agreement.

2.05 Exception re: Leaseholds and Contractual Rights

The last day of the term of any lease, sublease or agreement therefor is specifically excepted from the security interest created by this Agreement, but the Debtor agrees to stand possessed of such last day in trust for such person as Tandia may direct and the Debtor shall assign and dispose thereof in accordance with such direction. To the extent that the security interest created by this Agreement in any contractual rights would constitute a breach or cause the acceleration of such contract, said security interest shall not be granted hereunder but the Debtor shall hold its interest therein in trust for Tandia, shall use its best efforts to obtain the appropriate consents to the attachment of said security interest and shall grant a security interest in such contractual rights to Tandia forthwith upon obtaining the appropriate consents to the attachment of said security interest.

2.06 Collateral Consisting of Investment Property

If any of the Collateral consists of Investment Property and after the occurrence and continuation of an Event of Default, (a) the Debtor authorizes Tandia to transfer such Collateral or any part thereof into its own name or that of its nominee so that Tandia or its nominee may appear of record as the sole owner thereof;



provided, that until the security hereby constituted becomes enforceable, Tandia shall deliver promptly to the Debtor all notices, statements or other communications received by it or its nominee as such registered owner, and upon demand and receipt of payment of necessary expenses thereof, shall give to the Debtor or its designee a proxy or proxies to vote and take all action with respect to such property; provided further that after the security hereby constituted becomes enforceable, the Debtor waives all rights to be advised of or to receive any notices, statements or communications received by Tandia or its nominee as such record owner, and agrees that no proxy or proxies given by Tandia to the Debtor or its designee as aforesaid shall thereafter be effective; and (b) the Debtor further agrees to execute such other documents and to perform such other acts, and to cause any issuer or securities intermediary to execute such other documents and to perform such other acts as may be necessary or appropriate in order to give Tandia "control" of such Investment Property, as defined in the *Securities Transfer Act, 2006* (Ontario), which "control" shall be in such manner as Tandia shall designate in its sole judgment and discretion, including, without limitation, an agreement by any issuer or securities intermediary that it will comply with instructions in the case of an issuer or entitlement orders in the case of a securities intermediary, originated by Tandia, whether before or after security hereby constituted becomes enforceable, without further consent by the Debtor.

2.07 Income from and Interest on Collateral Consisting of Investment Property

- (a) Until the security hereby constituted becomes enforceable, the Debtor reserves the right to receive all income from or interest on the Collateral consisting of Investment Property, and if Tandia receives any such income or interest prior to the security hereby constituted becoming enforceable, Tandia shall pay such income or interest promptly to the Debtor.
- (b) After the security hereby constituted becomes enforceable, the Debtor will not demand or receive any income from or interest on such Collateral, and if the Debtor receives any such income or interest without any demand by it, such income or interest shall be held by the Debtor in trust for Tandia in the same medium in which received, shall not be commingled with any assets of the Debtor and shall be delivered to Tandia in the form received, properly endorsed to permit collection, not later than the next business day following the day of its receipt. Tandia may apply the net cash receipts from such income or interest to payment of any of the Obligations, provided that Tandia shall account for and pay over to the Debtor any such income or interest remaining after payment in full of the Obligations.

ARTICLE 3 - WARRANTIES AND COVENANTS OF THE DEBTOR

3.01 Warranties and Covenants

The Debtor hereby warrants, covenants and agrees with Tandia as follows:

- (a) The Debtor will keep its chief executive office and its records concerning its accounts receivable and other accounts located at the address set out in Section 6.09(b) as the initial address for notice to the Debtor or, upon twenty (20) calendar days prior written notice to Tandia, at such other location in a jurisdiction where all actions required to be taken with respect thereto by or on behalf of Tandia pursuant to Section 6.04 have been taken.
- (b) The Collateral is now and will be located at or in transit to or from:
 - (i) the location of the Debtor set out as the initial address for notice to the Debtor in Section 6.09(b);
 - (ii) any additional addresses or locations specified as a location of the Collateral in **Schedule "B"** hereto; or
 - (iii) upon twenty (20) calendar days prior notice to Tandia, such other location in a jurisdiction where all actions that Tandia shall require be taken pursuant to Section 6.04 have been taken.



- (c) The Debtor shall keep the Collateral in good condition and repair, normal wear and tear excepted.
- (d) The Debtor shall pay all rents, taxes, rates, levies, assessments and other charges lawfully levied, imposed upon or assessed against or in respect of the Collateral, or the income and profits of the Debtor, when the same become payable.
- (e) The Debtor agrees to promptly notify Tandia in writing of the acquisition by the Debtor of any personal property which is not of the nature or type described by the definition of Collateral, and the Debtor agrees to execute and deliver at its own expense from time to time amendments to this Agreement or additional security agreements as may be reasonably required by Tandia in order that a security interest shall attach to such personal property.
- (f) The Debtor shall obtain, observe and perform all its obligations under leases, licenses and agreements, preserve its rights, powers, licenses, privileges, franchises and goodwill, and comply with all Applicable Laws, rules and regulations in a proper and efficient manner so as to preserve and protect the Collateral, the security interest created by this Agreement and the business and undertaking of the Debtor.
- (g) The Debtor shall prevent the Collateral from becoming an accession to any personal property not subject to this Agreement, or becoming affixed to any real property, without the prior written consent of Tandia.
- (h) The Debtor shall deliver to Tandia from time to time as requested by Tandia all items of Collateral comprising Investment Property (to the extent certificated). Such delivery shall be effected by depositing with Tandia all certificates representing such Investment Property (to the extent certificated). All certificates so deposited shall, unless all necessary consents and approvals are obtained, not contain any reference to restrictions on the transfer of the shares represented thereby and shall be duly endorsed in blank for transfer or shall be attached to duly executed powers of attorney or forms of transfer.
- (i) The Debtor shall deliver to Tandia upon the request of Tandia from time to time all items of Collateral comprising Chattel Paper, Instruments, Investment Property (to the extent certificated) and those Documents of Title which are negotiable.
- (j) The Debtor agrees, upon request by Tandia, to use commercially reasonable efforts to obtain a written agreement from each landlord of the Debtor in favour of Tandia and in form and substance satisfactory to Tandia, whereby such landlord:
 - (i) agrees to give notice to Tandia of any default by the Debtor under the applicable lease(s) and a reasonable opportunity to cure such default prior to the exercise of any remedies by the landlord; and
 - (ii) acknowledges the security interest created by this Agreement and the right of Tandia to enforce the security interest created by this Agreement in priority to any claim of such landlord.
- (k) The Debtor shall perform all obligations incidental to any trust imposed upon it by statute and shall ensure that any breaches of such obligations and the consequences of any such breach shall be promptly remedied.
- (l) The Debtor shall permit a representative of Tandia to inspect the Collateral and the operations of the Debtor and for that purpose to enter the Debtor's premises and any other location where the Collateral may be situated during reasonable business hours and upon reasonable notice.



- (m) The Debtor shall:
- (i) keep proper books of account and records covering all its business and affairs on a current basis as well as accurate and complete records concerning the Collateral;
 - (ii) notify Tandia promptly of any loss or damage to or any seizure of any significant portion of the Collateral;
 - (iii) furnish Tandia with such information regarding the Collateral and its value and location as Tandia may from time to time reasonably request;
 - (iv) permit a representative of Tandia, during reasonable business hours and upon reasonable notice, to inspect the Debtor's books of account, records and documents and to make copies, extracts and summaries therefrom; and
 - (v) permit Tandia or its representative to make inquiries of third parties for the purpose of verification of any of the foregoing.
- (n) The Debtor shall promptly notify Tandia in writing of the details of:
- (i) any amendment to its articles (or equivalent), including without limitation by virtue of the filing of articles of amalgamation (or equivalent), effecting a change in the Debtor's name or authorizing it to use a French version of its name;
 - (ii) any claim, litigation or proceedings before any court, administrative board or other tribunal which either does or could have a material adverse effect on the Collateral or the Debtor;
 - (iii) any claim, lien, attachment, execution or other process or encumbrance made or asserted against or with respect to the Collateral which either does or could have a material adverse effect on the security interest;
 - (iv) any transfer of the Debtor's interest in the Collateral, whether or not permitted hereunder; or
 - (v) any material loss of or damage to the Collateral, whether or not such loss or damage is covered by insurance.
- (o) The Debtor shall not, without the prior written consent of Tandia or, in the case of a statutory amalgamation, ten (10) Business Days, prior written notice to Tandia, amalgamate with any other corporation or corporations or enter into any arrangement or agreement, which, either separately or in combination with any other transactions, arrangements or agreements, would have the effect of the Debtor merging, amalgamating or entering into any joint venture or co-tenancy arrangement with any other person.
- (p) If any of the Collateral consists of Investment Property, (a) the Debtor authorizes Tandia to transfer such Collateral or any part thereof into its own name or that of its nominee so that Tandia or its nominee may appear of record as the sole owner thereof; provided, that so long as no Event of Default has occurred, Tandia shall deliver promptly to the Debtor all notices, statements or other communications received by it or its nominee as such registered owner, and upon demand and receipt of payment of necessary expenses thereof, shall give to the Debtor or its designee a proxy or proxies to vote and take all action with respect to such property; provided further that after the occurrence of an Event of Default, the Debtor waives all rights to be advised of or to receive any notices, statements or communications received by Tandia or its nominee as such record owner, and agrees that no proxy or proxies given by Tandia to the Debtor or its designee as aforesaid shall

thereafter be effective; and (b) the Debtor further agrees to execute such other documents and to perform such other acts, and to cause any issuer or securities intermediary to execute such other documents and to perform such other acts as may be necessary or appropriate in order to give Tandia "control" of such Investment Property, as defined in the *Securities Transfer Act, 2006* (Ontario), which "control" shall be in such manner as Tandia shall designate in its sole judgment and discretion, including, without limitation, an agreement by any issuer or securities intermediary that it will comply with instructions in the case of an issuer or entitlement orders in the case of a securities intermediary, originated by Tandia, whether before or after the occurrence of an Event of Default, without further consent by the Debtor

- (q) The Debtor shall pay all reasonable costs and expenses of Tandia, its agents, officers and employees (including, without limitation, reasonable legal fees and disbursements on a substantial indemnity basis) incurred with respect to:
- (i) the preparation, perfection, execution and filing of this Agreement and the filing of financing statement(s) and financing change statement(s) with respect to this Agreement;
 - (ii) dealing with other creditors of the Debtor in connection with the establishment and confirmation of the priority of the security interest created by this Agreement;
 - (iii) any person engaged by Tandia to conduct an inspection under either of paragraph (k) or (l) above;
 - (iv) the exercising of any or all of the rights, remedies and powers of Tandia under this Agreement; and
 - (v) recovering or repossessing the Collateral and any other proceedings taken for the purpose of enforcing the remedies provided herein, including, without limitation, the appointment of a receiver, manager or receiver and manager, whether by order of the court or by private appointment.
- (r) The Debtor shall indemnify Tandia for all reasonable costs and expenses as set out in Sections 3.01(q) and 3.02 and agrees that if such costs and expenses are not paid when due, all such costs and expenses to be payable by the Debtor to Tandia on demand, to bear interest at the highest rate per annum borne by any of the Obligations, calculated and compounded monthly, and (with all such interest) to be added to and form part of the Obligations (the "**Default Rate**").

3.02 Performance of Covenants by Tandia

Tandia may, in its sole discretion and upon notice to the Debtor, perform any covenant of the Debtor under this Agreement that the Debtor fails to perform and that Tandia is capable of performing, including any covenant the performance of which requires the payment of money, provided that Tandia will not be obligated to perform any such covenant on behalf of the Debtor and no such performance by Tandia will require Tandia further to perform the Debtor's covenants nor operate as a derogation of the rights and remedies of Tandia under this Agreement.

ARTICLE 4 - RESTRICTIONS ON SALE OR DISPOSAL OF COLLATERAL

4.01 General Restrictions

Except as herein provided or except as provided in the Commitment Letter, the Debtor shall not, without the prior written consent of Tandia:



- (a) create, allow to be created, assume or suffer to exist any Encumbrance upon the Collateral, other than Permitted Encumbrances;
- (b) sell, lease or otherwise dispose of the Collateral or any part thereof; or
- (c) release, surrender or abandon possession of the Collateral or any part thereof,

save as herein otherwise expressly provided, nothing herein shall be construed as constituting an express or implied subordination or postponement of the security interest in favour of any Permitted Encumbrance.

4.02 Permitted Sales

This Agreement and the security interest shall in no way hinder or prevent the Debtor, without the prior written consent of Tandia, at any time and from time to time until an Event of Default shall have occurred and the security interest shall have become enforceable:

- (a) lease, sell, license, consign or otherwise deal with items of Inventory in the ordinary course of its business so that the purchaser thereof takes title clear of the security interest created by this Agreement but if such sale, lease or other dealing with results in an Account, such Account shall be subject to the security interest created by this Agreement;
- (b) sell or otherwise dispose of such part of its Equipment which is not necessary to or useful in connection with its business and undertaking, or which has become worn out or damaged or otherwise unsuitable for its purpose; provided that such Equipment is replaced or has nominal value; and
- (c) continue to collect, at its own expense, all amounts due or to become due to the Debtor under the Accounts; and in connection with such collections, take (and, at Tandia's direction, shall take) such action as the Debtor or Tandia may deem necessary or advisable to enforce collection of the Accounts; provided, however, that Tandia shall have the right at any time upon the security hereby constituted becoming enforceable to notify the account debtors or obligors under any Accounts of the assignment of such Accounts to Tandia and to direct such account debtors or obligors to make payment of all amounts due or to become due to the Debtor thereunder directly to Tandia and to give valid and binding receipts and discharges therefor and in respect thereof and, upon such notification and at the expense of the Debtor, to enforce collection of any such Accounts, and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as the Debtor might have done.

After the security hereby constituted becomes enforceable,

- (a) all money or other form of payment received by the Debtor in respect of the Accounts shall be received in trust for the benefit of Tandia hereunder, shall be segregated from other funds of the Debtor and shall be forthwith paid over to Tandia in the same form as so received (with any necessary endorsement) to be held as cash collateral and applied as provided by Section 5.07; and
- (b) the Debtor shall not adjust, settle or compromise the amount or payment of any Accounts, or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon without prior written consent of Tandia.

4.03 Release by Tandia

Tandia may, at its discretion, at any time release from the security interest created by this Agreement any part or parts of the Collateral or any other security or any surety for the Obligations either with or without sufficient consideration therefor without thereby releasing any other part of the Collateral or any person from this Agreement.



4.04 Proceeds Held in Trust

All Proceeds that are monies collected or received by the Debtor will be received by the Debtor in trust for Tandia and will be forthwith paid to Tandia. Tandia shall not exercise its rights under this Section 4.04, and the Debtor's trust obligations under this Section 4.04 need not be complied with, unless such Proceeds arise from a disposition of Collateral which is not permitted hereunder or unless and until the security hereby constituted becomes enforceable.

ARTICLE 5 - DEFAULT AND ENFORCEMENT

5.01 Enforcement

The security hereby constituted shall immediately become enforceable upon the Obligations being declared immediately due and payable pursuant to the Events of Default outlined in the Commitment Letter.

5.02 Remedies

At any time after the happening of any event by which the security hereby constituted becomes enforceable, Tandia shall have the following rights, powers and remedies:

- (a) to appoint any person to be an agent or any person to be a receiver, manager or receiver and manager (herein called the "**Receiver**") of the Collateral and to remove any Receiver so appointed and to appoint another if Tandia so desires; it being agreed that any Receiver appointed pursuant to the provisions of this Agreement shall have all of the powers of Tandia hereunder, and in addition, shall have the power to carry on the business of the Debtor;
- (b) to make payments to parties having prior charges or encumbrances on properties on which Tandia may hold charges or encumbrances;
- (c) enter upon, use and occupy any and all premises owned, leased or occupied by the Debtor where the Collateral may be located;
- (d) take immediate possession of all or any part of the Collateral and require the Debtor to assemble and deliver possession of the Collateral at a location or locations specified by Tandia, with power to exclude the Debtor, its officers, directors, employees and agents therefrom;
- (e) to preserve, protect and maintain the Collateral and make such replacements thereof and additions thereto as Tandia shall deem advisable;
- (f) to enjoy and exercise all powers necessary or incidental to the performance of all functions provided for in this Agreement including, without limitation, the power to purchase on credit, the power to borrow in the Debtor's name or in the name of the Receiver and to advance its own money to the Debtor at such rates of interest as it may deem reasonable, provided that the Receiver shall borrow money only with the prior consent of Tandia, and to grant security interests in the Collateral in priority to the security interest created by this Agreement, as security for the money so borrowed;
- (g) to sell, lease or dispose of all or any part of the Collateral whether by public or private sale or lease or otherwise and on any terms so long as every aspect of the disposition is commercially reasonable, including, without limitation, terms that provide time for payment of credit; provided that
 - (i) Tandia or the Receiver will not be required to sell, lease or dispose of the Collateral, but may peaceably and quietly take, hold, use, occupy, possess and enjoy the Collateral without molestation, eviction, hindrance or interruption by the

Debtor or any other person or persons whomsoever for such period of time as is commercially reasonable;

- (ii) Tandia or the Receiver may convey, transfer and assign to a purchaser or purchasers the title to any of the Collateral so sold; and
- (iii) subject to Section 5.07, the Debtor will be entitled to be credited with the actual proceeds of any such sale, lease or other disposition only when such proceeds are received by Tandia or the Receiver in cash or such other form of compensation as may be acceptable to Tandia, in its sole discretion;
- (h) to enjoy and exercise all of the rights and remedies of a secured party under the PPSA;
- (i) to dispose of all or any part of the Collateral in the condition in which it was on the date possession of it was taken, or after any commercially reasonable repair, processing or preparation for disposition;
- (j) to sell or otherwise dispose of any part of the Collateral without giving any notice whatsoever where:
 - (i) the Collateral is perishable;
 - (ii) Tandia or the Receiver believes on reasonable grounds that the Collateral will decline speedily in value;
 - (iii) the Collateral is of a type customarily sold on a recognized market;
 - (iv) the cost of care and storage of the Collateral is disproportionately large relative to its value;
 - (v) every person entitled by law to receive a notice of disposition consents in writing to the immediate disposition of the Collateral; or
 - (vi) the Receiver disposes of the Collateral in the course of the Debtor's business;
- (k) to have Investment Property included in the Collateral registered on the books of the issuers of such Investment Property in the name of Tandia or such nominee of Tandia as Tandia shall direct;
- (l) to commence, continue or defend proceedings in any court of competent jurisdiction in the name of Tandia, the Receiver or the Debtor for the purpose of exercising any of the rights, powers and remedies set out in this Section 5.02, including the institution of proceedings for the appointment of a receiver, manager or receiver and manager of the Collateral; and
- (m) at the sole option of Tandia, provided notice is given in the manner required by the PPSA to the Debtor and to any other person to whom the PPSA requires notice be given, to elect to retain all or any part of the Collateral in satisfaction of the Obligations.

5.03 Receiver as Agent

The Receiver shall be deemed to be the agent of the Debtor for the purpose of establishing liability for the acts or omissions of the Receiver and Tandia shall not be liable for such acts or omissions and, without restricting the generality of the foregoing, the Debtor hereby irrevocably authorizes Tandia to give instructions to the Receiver relating to the performance of its duties as set out herein.



5.04 Expenses of Enforcement

The Debtor shall pay to the Receiver the remuneration of the Receiver and all costs and expenses (including, without limitation, reasonable legal fees and disbursements on a substantial indemnity basis) properly incurred by the Receiver pursuant to its appointment and the exercise of its powers hereunder, and shall pay to Tandia and the Receiver as required all amounts of money (including interest thereon) borrowed or advanced by either of them pursuant to the powers set out herein, and the obligations of the Debtor to Tandia and the Receiver pursuant to this Section 5.04 shall be payable on demand and shall bear interest at the Default Rate, which interest shall be calculated and compounded monthly and payable on demand.

5.05 Indulgences and Releases

Either Tandia or the Receiver may grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, release any part of the Collateral to third parties and otherwise deal with the Debtor, debtors of the Debtor, sureties and others and with the Collateral and other security as Tandia or the Receiver may see fit without prejudice to the Obligations or the right of Tandia and the Receiver to repossess, hold, collect and realize the Collateral.

5.06 No Liability for Failure to Exercise Remedies

Tandia and the Receiver shall not be liable or accountable to the Debtor or to any other person for any failure to exercise any of the rights, powers and remedies set out in Section 5.02, and shall not be bound to commence, continue or defend proceedings for the purpose of preserving or protecting any rights of Tandia, the Receiver, the Debtor or any other party in respect of the same.

5.07 Proceeds of Disposition

Subject to the claims, if any, of the prior secured creditors of the Debtor, all monies received by Tandia or by the Receiver pursuant to Section 5.02 shall be applied as follows:

- (a) first, in payment of all costs and expenses incurred by Tandia in the exercise of all or any of the powers granted to it under this Agreement, including, without limitation, the costs and expenses referred to in Sections 3.01(q) and 3.02 and in payment of all of the remuneration of the Receiver and all costs and expenses properly incurred by the Receiver in the exercise of all or any of the powers granted to it under this Agreement, including, without limitation, the remuneration, costs and expenses referred to in Section 5.04;
- (b) second, in payment of all amounts of money borrowed or advanced by either of Tandia or the Receiver pursuant to the powers set out in this Agreement and any interest thereon;
- (c) third, to the payment or prepayment of the Obligations, provided that if there are not sufficient moneys to pay all of the Obligations, Tandia may apply the moneys available to such part or parts thereof as Tandia, in its sole discretion, may determine; and
- (d) fourth, in payment of any surplus in accordance with Applicable Law.

5.08 Debtor Liable for Deficiency

If the monies received by Tandia or the Receiver pursuant to Section 5.02 are not sufficient to pay the claims set out in Sections 5.07(a), (b) and (c), the Debtor shall immediately pay Tandia the amount of such deficiency.

5.09 Restriction on the Debtor

Upon Tandia taking possession of the Collateral or the appointment of a Receiver, all the powers, functions, rights and privileges of the Debtor or any officer, director, servant or agent of the Debtor with respect to the



Collateral shall, to the extent permitted by law, be suspended unless specifically continued by the written consent of Tandia; however, all other powers, functions, rights and privileges of the Debtor or any officer, director, servant or agent of the Debtor shall be unaffected by such events.

5.10 Rights Cumulative

All rights and remedies of Tandia set out in this Agreement shall be cumulative and no right or remedy contained herein is intended to be exclusive but each shall be in addition to every other right or remedy contained herein or in any existing or future security document or now or hereafter existing at law or in equity or by statute. The taking of a judgment or judgments with respect to any of the Obligations shall not operate as a merger of any of the covenants contained in this Agreement.

5.11 Care by Tandia

Tandia shall exercise reasonable care in the custody and preservation of any of the Collateral in Tandia's possession if it takes such action for that purpose as the Debtor requests in writing, but failure of Tandia to comply with any such request shall not be deemed to be (or to be evidence of) a failure to exercise reasonable care, and no failure of Tandia to preserve or protect any rights with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by the Debtor, shall be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

5.12 Standards of Sale

Without prejudice to the ability of Tandia to dispose of the Collateral in any manner which is commercially reasonable, the Debtor acknowledges that a disposition of Collateral by Tandia which takes place substantially in accordance with the following provisions shall be deemed to be commercially reasonable:

- (a) Collateral may be disposed of in whole or in part;
- (b) Collateral may be disposed of by public sale following one advertisement in a newspaper or trade publication having general circulation in the location of such Collateral at least seven days prior to such sale;
- (c) Collateral may be disposed of by private sale after receipt by Tandia of two written offers;
- (d) the purchaser or lessee of such Collateral may be a customer of Tandia;
- (e) the disposition may be for cash or credit, or part cash and part credit; and
- (f) Tandia may establish a reserve bid in respect of all or any portion of the Collateral.

5.13 Set-Off

Without in any way limiting any other rights or remedies available to Tandia, Tandia shall have the right (but shall not be obligated), at any time and from time to time after the occurrence of an Event of Default and without notice to the Debtor (such notice being expressly waived by the Debtor), to set off against the Obligations or any of them deposits (general or special) or moneys then held by Tandia or any other indebtedness owing by Tandia to, or held by Tandia for the credit of, the Debtor, regardless of the currency in which such indebtedness is denominated and notwithstanding that such indebtedness is not then due.

ARTICLE 6 - GENERAL

6.01 Waiver

Any breach by the Debtor of any of the provisions contained in this Agreement or any default by the Debtor in the observance or performance of any covenant or condition required to be observed or performed by the Debtor hereunder, may only be waived by Tandia in writing, provided that no such waiver by Tandia shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom.

6.02 Amendment

This Agreement may only be amended, supplemented or terminated by a written agreement signed by the Debtor and Tandia.

6.03 Tandia as Attorney

The Debtor hereby irrevocably appoints Tandia and any person further designated by Tandia to be the attorney of the Debtor for and in the name of the Debtor to execute and do any deeds, documents, transfers, demands, assignments, assurances, consents and things which the Debtor is obliged to sign, execute or do hereunder and, after the happening of any event by which the security hereby constituted becomes enforceable, to commence, continue and defend any proceedings authorized to be taken hereunder and generally to use the name of the Debtor in the exercise of all or any of the powers hereby conferred on Tandia. The power of attorney hereby granted is coupled with an interest, is irrevocable and shall extend to the successor and assigns of the Debtor. The Debtor agrees to be bound by any representations and actions made or taken in good faith by Tandia pursuant to this power of attorney in accordance with the terms thereof and hereby waives any and all defences which may be available to it to contest, negate or disaffirm the actions of Tandia taken in good faith under this power of attorney.

6.04 Further Assurances

The Debtor shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such further acts, deeds, mortgages, transfers and assurances and take all such further action or cause such further action to be taken as Tandia shall reasonably require for the better assuring, charging, assigning and conferring unto Tandia a security interest in the Collateral or property intended to be charged hereunder, or which the Debtor may hereafter become bound to charge in favour of Tandia, for the purpose of accomplishing and effecting the intention of this Agreement.

6.05 Continuing Security

This Agreement shall become effective according to its terms immediately upon the execution hereof by the Debtor and the security interest constituted hereby shall be deemed to be a continuing security for the Obligations until all of the Obligations from time to time are paid and performed in full and this Agreement is terminated in writing by Tandia.

6.06 No Obligation to Advance

Neither the execution nor delivery of this Agreement shall obligate Tandia to advance any moneys to the Debtor.

6.07 Non-substitution

This Agreement and the security interest are in addition to and not in substitution for any other agreement made between Tandia and the Debtor or any other security granted by the Debtor to Tandia whether before or after the execution of this Agreement.



6.08 Consumer Goods

Notwithstanding any other clause in this Agreement, in no event shall goods that are used or acquired for use primarily for personal, family or household purposes form part of the Collateral.

6.09 Notices

Any demand, notice or other communication in connection with this Agreement shall be in writing and shall be personally delivered to an officer or other responsible employee of the addressee, mailed by registered mail or sent by email, charges prepaid, at or to the address or email address of the party set out opposite its name below:

(a) In the case of Tandia:

Tandia Credit Union Limited o/a Tandia
3455 North Service Road, Unit 100
Burlington, ON L7N 3G2

Attention: Junaid Alam
Email: junaid.alam@tandia.com

(b) In the case of the Debtor:

2492029 Ontario Inc.
7263 Second Line W
Mississauga, Ontario, L5W 1M7

Attention: Noorallah Nawrozada

or to such other address or addresses or email addresses as either party may from time to time designate to the other party in such manner. Any demand, notice or other communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a Business Day and such delivery was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the Business Day next following such date of delivery. Any demand, notice or other communication mailed as aforesaid shall be deemed to have been validly and effectively given on the fifth Business Day following the date of mailing provided that, in the event of an interruption in postal services before such fifth Business Day, such communication shall be given by one of the other means. Any demand, notice or other communication which is transmitted by email or other direct written electronic means as aforesaid shall be deemed to have been validly and effectively given on the date of transmission if such date is a Business Day and such transmission was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly given on the Business Day next following such date of transmission.

6.10 Successors and Assigns

This Agreement shall enure to the benefit of Tandia and its successors and assigns and shall be binding upon the Debtor and its successors and permitted assigns.

6.11 Amalgamation of Debtor

The Debtor hereby acknowledges and agrees that in the event it amalgamates with any other corporation or corporations, it is the intention of the parties hereto that the term "Debtor", when used herein, shall apply to each of the amalgamating corporations and to the amalgamated corporation, such that the security interest granted hereby:



- (a) shall extend to "Collateral" (as that term is herein defined) owned by each of the amalgamating corporations and the amalgamated corporation at the time of amalgamation and to any "Collateral" thereafter owned or acquired by the amalgamated corporation;
- (b) shall secure the "Obligations" (as that term is herein defined) of each of the amalgamating corporations and the amalgamated corporation to Tandia at the time of amalgamation and any "Obligations" of the amalgamated corporation to Tandia thereafter arising; and
- (c) shall attach to "Collateral" owned by each corporation amalgamating with the Debtor and by the amalgamated corporation, at the time of amalgamation, and shall attach to any "Collateral" thereafter owned or acquired by the amalgamated corporation when such becomes owned or is acquired.

6.12 Entire Agreement

Except for the Commitment Letter and any document, agreement or instrument delivered pursuant thereto or referred to therein, this Agreement constitutes the entire agreement between the parties hereto and supersedes any prior agreements, undertakings, declarations, representations and undertakings, both written and oral, in respect of the subject matter hereof.

6.13 Binding Effect

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective, heirs, executors, administrators, successors and assigns, as applicable.

6.14 Disclosure of Information re: Debtor

The Debtor agrees that Tandia may provide from time to time such information concerning this Agreement, the Collateral and the Obligations to such persons as Tandia in good faith believes are entitled to the same under the PPSA.

6.15 Acknowledgment

The Debtor acknowledges receipt of a copy of this Agreement and, to the extent permitted by Applicable Law, waives the right to receive a copy of any financing statement, financing change statement or verification statement in respect of any registered financing statement or financing change statement prepared, registered or issued in connection with this Agreement.

6.16 Paramourncy

In the event of any conflict or inconsistency between the provisions of this Agreement and the Commitment Letter, the provisions of the Commitment Letter shall prevail and be paramount.

6.17 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a party may send a copy of its original signature on the execution page hereof to the other party by facsimile transmission or emailed PDF and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving party.


[Signature Page Follows]



IN WITNESS WHEREOF the Debtor has executed this Agreement as of the date first written above.

2492029 ONTARIO INC.

Per:

Name: 
Noorallah Nawrozada

Title: President

I have authority to bind the Corporation.

**SCHEDULE A
PERMITTED ENCUMBRANCES**

1. Charge in favour of 9161813 Canada Ltd. registered as Instrument No. SC1936360 (to be postponed to Tandia's new 1st charge)
2. Notice of Assignment of Rents in favour of 9161813 Canada Ltd. registered as Instrument No. SC1936361 (to be postponed - as related instrument in postponement of above charge)
3. Charge in favour of Parkland Corporation registered as Instrument No. SC1943490 (to be postponed to Tandia's new 1st charge)



SCHEDULE "B"
ADDITIONAL COLLATERAL LOCATIONS

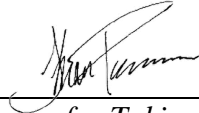
[NTD: Debtor to complete]

<u>Location/Address</u>
1371 Highway 11 North, Shanty Bay, Ontario, L0L 2L0

45403415.2



This is Exhibit "D" referred to in the Affidavit of Dawood Khan sworn before me, this 28th, day of November, 2024.



Commissioner for Taking Affidavits

RUN NUMBER : 326
RUN DATE : 2024/11/21
ID : 20241121094141.66

PROVINCE OF ONTARIO
MINISTRY OF PUBLIC AND BUSINESS SERVICE DELIVERY
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 1
(2750)

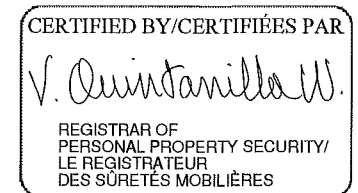
THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 2492029 ONTARIO INC.
FILE CURRENCY : 20NOV 2024

ENQUIRY NUMBER 20241121094141.66 CONTAINS 7 PAGE(S), 3 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

AIRD & BERLIS LLP
ATTN: SHANNON MORRIS
HOLD FOR PICK UP
TORONTO ON M5J2T9



(crfj6 05/2022)

CONTINUED... 2



RUN NUMBER : 326
RUN DATE : 2024/11/21
ID : 20241121094141.66

PROVINCE OF ONTARIO
MINISTRY OF PUBLIC AND BUSINESS SERVICE DELIVERY
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 2
(2751)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 2492029 ONTARIO INC.
FILE CURRENCY : 20NOV 2024

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
502397433

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	001	2		20240201 1040 1590 9013	P PPSA	5

DEBTOR NAME
DATE OF BIRTH
FIRST GIVEN NAME
INITIAL
SURNAME

BUSINESS NAME
2492029 ONTARIO INC.

ADDRESS
1371 HWY 11
SHANTY BAY
ONTARIO CORPORATION NO.
ON L0L 2L0

DEBTOR NAME
DATE OF BIRTH
FIRST GIVEN NAME
INITIAL
SURNAME

BUSINESS NAME

ADDRESS
ONTARIO CORPORATION NO.

SECURED PARTY / LIEN CLAIMANT
ECONO PETROLEUM INC.

ADDRESS
200-30 COLONNADE ROAD
OTTAWA
ON K2E 7J6

COLLATERAL CLASSIFICATION	CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS OTHER	MOTOR VEHICLE INCLUDED	AMOUNT	DATE OF MATURITY OR	NO. FIXED MATURITY DATE
	X		X	X	X			X

MOTOR VEHICLE
YEAR MAKE
MODEL
V.I.N.

GENERAL COLLATERAL DESCRIPTION
SECURITY INTEREST TAKEN BY SECURITY AGREEMENT IN ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY (AS SET OUT IN THE SAID SECURITY AGREEMENT OF THE DEBTOR INCLUDING ANY AND ALL RESERVES) COMPRISING OR

REGISTERING AGENT
DANIEL C. FERNANDES

ADDRESS
418 PRESTON STREET
OTTAWA
ON K1S 4N2

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

CONTINUED... 3

CERTIFIED BY/CERTIFIÉES PAR
V. Quintanilla W.
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES
(ej1fv 05/2022)



RUN NUMBER : 326
RUN DATE : 2024/11/21
ID : 20241121094141.66

PROVINCE OF ONTARIO
MINISTRY OF PUBLIC AND BUSINESS SERVICE DELIVERY
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 3
(2752)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 2492029 ONTARIO INC.
FILE CURRENCY : 20NOV 2024

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
502397433

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	002	2		20240201 1040 1590 9013		

DEBTOR NAME DATE OF BIRTH BUSINESS NAME FIRST GIVEN NAME INITIAL SURNAME

DEBTOR NAME BUSINESS NAME

DEBTOR NAME ADDRESS

ONTARIO CORPORATION NO.

DEBTOR NAME DATE OF BIRTH BUSINESS NAME FIRST GIVEN NAME INITIAL SURNAME

DEBTOR NAME BUSINESS NAME

DEBTOR NAME ADDRESS

ONTARIO CORPORATION NO.

SECURED PARTY / LIEN CLAIMANT ADDRESS

SECURED PARTY / LIEN CLAIMANT ADDRESS

COLLATERAL CLASSIFICATION	CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS OTHER	MOTOR VEHICLE INCLUDED	AMOUNT	DATE OF MATURITY OR	NO. FIXED MATURITY DATE
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MOTOR VEHICLE YEAR MAKE MODEL V.I.N.

MOTOR VEHICLE YEAR MAKE MODEL V.I.N.

GENERAL COLLATERAL DESCRIPTION OTHERWISE RELATING TO AND ARISING FROM THE LANDS AND PREMISES MUNICIPALLY KNOWN AS 1371 HWY 11, SHANTY BAY, ON.

REGISTERING AGENT ADDRESS

REGISTERING AGENT ADDRESS

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

CONTINUED...

4

CERTIFIED BY/CERTIFIÉES PAR
V. Quintanilla W.
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES

(cij1fv 05/2022)



RUN NUMBER : 326
RUN DATE : 2024/11/21
ID : 20241121094141.66

PROVINCE OF ONTARIO
MINISTRY OF PUBLIC AND BUSINESS SERVICE DELIVERY
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 4
(2753)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 2492029 ONTARIO INC.
FILE CURRENCY : 20NOV 2024

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
792956709

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	001	1		20230503 1201 1590 1909	P PPSA	5

DEBTOR NAME DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

2492029 ONTARIO INC.

ADDRESS 1371 HIGHWAY 11 NORTH SHANTY BAY ONTARIO CORPORATION NO. ON L0L 2L0

DEBTOR NAME DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

BUSINESS NAME

ADDRESS

SECURED PARTY / LIEN CLAIMANT TANDIA FINANCIAL CREDIT UNION LIMITED

ADDRESS 3455 NORTH SERVICE ROAD, UNIT 100 BURLINGTON ON L7N 3G2

COLLATERAL CLASSIFICATION				MOTOR VEHICLE	AMOUNT	DATE OF	NO FIXED
CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS OTHER	INCLUDED		MATURITY OR	MATURITY DATE
X	X	X	X	X			

MOTOR VEHICLE YEAR MAKE MODEL V.I.N.

GENERAL COLLATERAL DESCRIPTION

REGISTERING AGENT KEYSER MASON BALL, LLP

ADDRESS 900-3 ROBERT SPECK PARKWAY MISSISSAUGA ON L4Z 2G5

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

CONTINUED... 5

CERTIFIED BY/CERTIFIÉES PAR
V. Quintanilla W.
REGISTRAR OF PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR DES SÛRETÉS MOBILIÈRES

(crj1fv 05/2022)



RUN NUMBER : 326
RUN DATE : 2024/11/21
ID : 20241121094141.66

PROVINCE OF ONTARIO
MINISTRY OF PUBLIC AND BUSINESS SERVICE DELIVERY
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 5
(2754)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 2492029 ONTARIO INC.
FILE CURRENCY : 20NOV 2024

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
786128265

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	001	2		20220825 1324 1590 7380	P PPSA	5

DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
-------------	---------------	------------------	---------	---------

02 DEBTOR NAME : BUSINESS NAME : 2492029 ONTARIO INC.

04 ADDRESS : 1101 FIELD DRIVE MILTON ONTARIO CORPORATION NO. : 2492029 ON L9T 6G6

DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
-------------	---------------	------------------	---------	---------

05 DEBTOR NAME : BUSINESS NAME : 1000108549 ONTARIO INC.

06 ADDRESS : 7263 SECOND LINE WEST MISSISSAUGA ONTARIO CORPORATION NO. : L5W 1M7 ON

08 SECURED PARTY / LIEN CLAIMANT : THE TORONTO-DOMINION BANK

09 ADDRESS : 1900 ELLESMERE ROAD & BELLAMY ROAD NORTH SCARBOROUGH ON M1H 2V6

COLLATERAL CLASSIFICATION		MOTOR VEHICLE		AMOUNT	DATE OF	NO. FIXED
CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS OTHER	INCLUDED	MATURITY OR	MATURITY DATE
			X	X		X

MOTOR VEHICLE	YEAR MAKE	MODEL	V.I.N.
---------------	-----------	-------	--------

13 GENERAL COLLATERAL DESCRIPTION

16 REGISTERING AGENT : FIJ LAW LLP
17 ADDRESS : 10-50 WEST PEARCE STREET RICHMOND HILL ON L4B 1C5

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

CONTINUED... 6

CERTIFIED BY/CERTIFIÉES PAR
V. Quintanilla W.
REGISTRAR OF PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR DES SÛRETÉS MOBILIÈRES

(crj1fv 05/2022)



RUN NUMBER : 326
RUN DATE : 2024/11/21
ID : 20241121094141.66

PROVINCE OF ONTARIO
MINISTRY OF PUBLIC AND BUSINESS SERVICE DELIVERY
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 6
(2755)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 2492029 ONTARIO INC.
FILE CURRENCY : 20NOV 2024

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
786128265

00

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	002	2		20220825 1324 1590 7380		

01

DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
-------------	---------------	------------------	---------	---------

02

BUSINESS NAME

03

ONTARIO CORPORATION NO.

04

ADDRESS

DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
-------------	---------------	------------------	---------	---------

05

BUSINESS NAME

06

ONTARIO CORPORATION NO.

07

ADDRESS

SECURED PARTY / LIEN CLAIMANT

08

ADDRESS (BRANCH #1790)

09

COLLATERAL CLASSIFICATION		MOTOR VEHICLE	AMOUNT	DATE OF MATURITY	NO. FIXED		
CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	INCLUDED	MATURITY OR	MATURITY DATE

10

MOTOR VEHICLE	YEAR	MAKE	MODEL	V.I.N.
---------------	------	------	-------	--------

11

GENERAL COLLATERAL DESCRIPTION

12

REGISTERING AGENT

13

ADDRESS

14

15

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

CONTINUED...

7

CERTIFIED BY/CERTIFIÉES PAR
V. Quintanilla W.
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES
(crj1fv 05/2022)

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PROVINCE OF ONTARIO
MINISTRY OF PUBLIC AND BUSINESS SERVICE DELIVERY
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 7
(2756)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 2492029 ONTARIO INC.
FILE CURRENCY : 20NOV 2024

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
502397433	20240201	1040	1590	9013
792956709	20230503	1201	1590	1909
786128265	20220825	1324	1590	7380

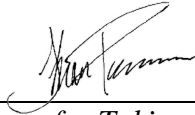
3 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.

CERTIFIED BY/CERTIFIÉES PAR
V. Quintanilla W.
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES

(crfj6 05/2022)

Ontario 

This is Exhibit "E" referred to in the Affidavit of Dawood Khan sworn before me, this 28th, day of November, 2024.



Commissioner for Taking Affidavits

Properties

PIN 58552 - 0015 LT Interest/Estate Fee Simple
Description LT 1 PL 1169 ORO; ORO-MEDONTE
Address 1371 HIGHWAY 11 NORTH ORO

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name 2492029 ONTARIO INC.
Address for Service 1371 Highway 11 North
Shanty Bay, Ontario
LOL 2L0

A person or persons with authority to bind the corporation has/have consented to the registration of this document.
This document is not authorized under Power of Attorney by this party.

Chargee(s) Capacity Share

Name TANDIA FINANCIAL CREDIT UNION LIMITED
Address for Service 3455 North Service Road, Unit 100, Burlington, Ontario L7N 3G2

Statements

Schedule: See Schedules

Provisions

Principal \$1,900,000.00 Currency CDN
Calculation Period ON DEMAND
Balance Due Date ON DEMAND
Interest Rate 6.90%
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date
Standard Charge Terms
Insurance Amount Full insurable value
Guarantor

Signed By

Pria Peterpaul 900-3 Robert Speck Pkwy acting for Signed 2023 05 05
Mississauga
L4Z 2G5
Chargor(s)

Tel 905-276-9111
Fax 905-276-2298

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

KEYSER MASON BALL LLP 900-3 Robert Speck Pkwy 2023 05 05
Mississauga
L4Z 2G5

Tel 905-276-9111
Fax 905-276-2298

Fees/Taxes/Payment

Statutory Registration Fee \$69.00
Total Paid \$69.00

1. COLLATERAL SECURITY

The Charge/Mortgage of Land (the "**Charge**") is continuing collateral security for and shall secure all obligations, debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed at any time owing by the Chargor to the Chargee or remaining unpaid by the Chargor to the Chargee heretofore or hereafter incurred or arising and whether incurred by or arising from agreement or dealings between the Chargee and the Chargor including by reason of the terms and conditions of this Charge, or from any agreement or dealings with any third party by which the Chargee may be or become in any manner whatsoever a creditor of the Chargor or however otherwise incurred or arising anywhere within or outside Canada and whether the Chargor be bound alone or with another or with others and whether as principal or surety and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again (such obligations, debts and liabilities being hereinafter called the "**Obligations**") but it being agreed that this Charge at any one time will secure only that portion of the aggregate principal component of the Obligations outstanding at such time which does not exceed the sum of **one million nine hundred thousand DOLLARS (\$1,900,000.00)** together with any interest or compounded interest accrued on the principal at the Interest Rate together with any other charges provided for herein or other amounts payable hereunder.

Without limiting the foregoing, the Chargor acknowledges that this Charge shall secure the payment of the Obligations and shall include all sums advanced by the Chargee pursuant to a Commitment Letter dated **April 13th 2023** executed by the Chargee and the Chargor as may be amended, restated and renewed from time to time (the "**Commitment Letter**").

Without limiting the foregoing, the Chargor acknowledges that this Charge shall secure the Obligations which shall include all sums advanced by the Chargee pursuant to a Promissory Note issued by the Chargor in favour of the Chargee in the principal sum of **one million nine hundred thousand dollars (\$1,900,000.00)** including interest at the rate provided for in the promissory note (the "**Promissory Note**") and which shall include any indebtedness owing to the Chargee pursuant to the guarantee dated on or about the date hereof made by **Noorallah Nawrozada** (the "**Guarantor**") in favour of the Chargee, as same may be amended, modified, supplemented or replaced from time to time (the "**Guarantee**").

2. SALE/TRANSFER

The Chargor shall not sell, transfer or encumber the Mortgaged Premises without the Chargee's prior written consent. If the Chargor does sell, transfer or encumber the Mortgaged Premises without such consent, then at the Chargee's option this Charge shall be in default and the full amount then owing hereunder shall become due and owing.

3. FINANCIAL STATEMENTS

Subject to any lengthier reporting requirement timeframes contained in the Commitment Letter, financial statements of the Chargor are to be delivered to the Chargee annually within 90 days of the Chargor's fiscal year end.

4. REALTY TAXES

Municipal property taxes with respect to the Mortgaged Premises shall be paid by the Chargor on or before the due date for payment with proof of such payment to be provided to the Chargee within 30 days of the due date. Not to derogate from the Chargor's obligation to provide the aforesaid proof, the Chargor hereby authorizes and directs any municipality in which the Mortgaged Premises is located to provide to the Chargee all and any information that it has in its possession respecting the Mortgaged Premises including the status of municipal property taxes.

5. DISCHARGE



The Chargee shall provide a discharge of this Charge once all Obligations owing to the Chargee have been paid in full and any other liabilities or obligations provided herein. The Chargor shall be responsible for the reasonable administrative and legal costs of the Chargee in connection with such discharge.

Provided the Chargor makes a written request to the Chargee for discharge of the Charge, the Chargee will discharge the Charge by electronic registration when the Obligations and all other indebtedness and obligations provided herein have been paid in full. The Chargor will pay to the Chargee in advance, its current administration fee and disbursements for the preparation and registration of the discharge. The Chargor will provide the Chargee with a reasonable time after payment to register the discharge.

In the event that the property is not located in a Land Registry Office where electronic registration (Ereg) is operative, then the Chargor will prepare a discharge of Charge and deliver it to the Chargee for execution. The Chargor will give the Chargee a reasonable time to execute the discharge and to return it to the Chargor for registration. The Chargor will pay to the Chargee in advance, its current administration fee with respect to the discharge of the Charge.

6. INSPECTIONS

The Chargor will permit the Chargee and persons authorized by the Chargee at all reasonable times to inspect the Mortgaged Premises from time to time.

7. DEFINITIONS

The following terms shall have the following meaning and be deemed to be included in the Charge:

- a) **"Bankruptcy Legislation"** means any present or future laws relating to bankruptcy or insolvency, reorganization or compromise of debts or other similar laws, including without limitation the *Companies Creditors Arrangement Act*.
- b) **"Business Day"** means any day except Saturday, Sunday or a statutory holiday in the province of Ontario.
- c) **"Charge"** means this Charge/Mortgage of the Lands made pursuant to the Land Registration Reform Act to which the Chargor and the Chargee are parties, which Charge consists of the electronic charge and any amendments contained therein and Schedule of Additional Provisions and any amendments from time to time made hereafter by the Chargor and Chargee in writing in accordance with the provisions hereof.
- d) **"Chattel"** has the meaning ascribed to it in clause (y) of Section 14 of this Charge.
- e) **"Chargee"** means TANDIA FINANCIAL CREDIT UNION LIMITED, its successors and assigns and where applicable, includes those from whom it acts as nominee or agent.
- f) **"Chargor"** means the person (including corporation) indicated in the Computer Field of the Charge entitled **"Chargor"** and each person for whom it executes as agent or attorney.
- g) **"Computer Field"** means a computer data entry field in a charge registered pursuant to Part III of the Land Registration Reform Act into which the terms and conditions of the Charge may be inserted.
- h) **"Contaminant"** means any solid, liquid, gas, odour, heat, sound, smoke, waste, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that may cause:
 - i) impairment of the quality of the natural environment for any use that can be made of it;
 - ii) injury or damage to Mortgaged Premises or to plant or animal life;
 - iii) harm or material discomfort to any person;
 - iv) an adverse affect on the health of any person;
 - v) impairment of the safety of any person;
 - vi) rendering any Mortgaged Premises or plan or animal life unfit for use by man;
 - vii) loss of enjoyment of normal use of Mortgaged Premises, or

- viii) interference with the normal conduct of business and includes any pollutant or contaminant as defined in any Environmental Laws and any biological chemical or physical agent which is regulated, prohibited, restricted or controlled.
- i) **"Costs"** means all reasonable fees, costs, charges and expenses of the Chargee of and incidental to:
 - (i) the negotiation, preparation, execution, subordination, postponement and registration of the Charge and any other instruments connected herewith and every renewal or discharge thereof;
 - (ii) the collection of any amounts payable hereunder, enforcement of any covenants contained herein and the realization of the security herein contained;
 - (iii) procuring or attempting to procure payment of any indebtedness or any other amounts due and payable hereunder, including foreclosure, power of sale or execution proceedings commenced by the Chargee or any other party;
 - (iv) any inspection required to be made of the Mortgaged Premises, or review of plans, specifications and other documentation which may require the approval or consent of the Chargee;
 - (v) all repairs and replacements required to be made to the Mortgaged Premises;
 - (vi) the Chargee having to go into possession of the Mortgaged Premises and secure, complete and equip the building or Improvements in any way in connection herewith;
 - (vii) the Chargee's renewal of any leasehold interest;
 - (viii) the exercise of any of the powers of a Receiver contained herein;
 - (ix) any necessary examination of title to the Mortgaged Premises; and
 - (x) the failure of the Chargor to comply with or fulfil any of the terms and conditions of this Charge or any agreement that the Chargor has with the Chargee including an Event of Default.

For greater certainty, Costs shall:

- (xi) extend to and include all reasonable legal expense incurred by the Chargee on a full indemnity basis;
 - (xii) the Chargee's standard administrative charges or fees and late charges;
 - (xiii) be payable forthwith by the Chargor;
 - (xiv) bear interest at the Interest Rate; and
 - (xv) be a charge on the Mortgaged Premises.
- j) **"Environmental Laws"** means the common law and all applicable federal, provincial, local, municipal, governmental or quasi-governmental laws, rules regulations, licenses, orders, permits, decisions or requirements concerning Contaminants, occupations or public health and safety or the environmental and any other order, injunction, judgment, declaration, notice or demand issued thereunder.
 - k) **"Event of Default"** has the meaning describe ascribed to it in Section 21 of this Charge.
 - l) **"Fixtures"** includes all attires, buildings, erections, appurtenances, plants and Improvements, fixed or otherwise, now or hereafter put on the Lands including without limitation all fences, elevators, furnaces, boilers, oil burners, water heaters, electric light fixtures, window blinds, screen and storm doors and windows and all air-conditioning, plumbing, cooling, ventilating, cooking, refrigeration and heating equipment and all other apparatus and equipment appurtenant to the Mortgaged Premises.
 - m) **"Improvement"** includes any construction, installation, alteration, addition, repair or demolition to any part of the Mortgaged Premises now existing or hereafter constructed or to be constructed on the Lands.
 - n) **"Indebtedness"** means all Obligations.
 - o) **"Interest Rate"** means the applicable rate of interest that is set out respectively in any agreement between the Chargor and the Chargee including, if applicable, the Commitment Letter and Promissory Note.
 - p) **"Lands"** means the lands and premises indicated in the Computer Field of the Charge entitled "Properties".
 - q) **"Mortgaged Premises"** means the Lands and all Fixtures.
 - r) **"Permitted Encumbrances"** means:
 - i) liens for Taxes not at the time due

- ii) any other liens or encumbrances specifically consented to by the Chargee in writing providing the same are maintained in good standing.
- s) **"Prime Rate"** shall mean the annual rate of interest which the Chargee establishes as the reference rate of interest to determine interest rates it will charge at such time for demand loans in Canadian dollars and which it refers to as its special rate of interest, such rate to be adjusted automatically and without the necessity of any notice to the Chargor upon each change to such rate.
- t) **"Principal Amount"** means the principal amount in lawful money of Canada indicated in the Computer Field of the Charge entitled "Principal".
- u) **"Receiver"** shall include one or more of a Receiver and a Receiver and Manager of all or any portion of the Mortgaged Premises appointed by the Chargee pursuant to the Charge.
- v) **"Taxes"** means all taxes, rates and other impositions whatsoever which are now or may hereafter be imposed, charged or levied by any authority creating a lien or charge on the Mortgaged Premises or any part thereof.

8. **IMPLIED COVENANTS**

The implied covenants deemed to be included in the Charge by clauses 7(1) 1 iii, and 7 (1) 2 of the *Land Registration Reform Act* are hereby varied by deleting therefrom the words "except as the records of the land registry office disclose" and substituting therefor "except Permitted Encumbrances". The implied covenant deemed to be included in the Charge by clause 7(1) 1.vii of the *Land Registration Reform Act* is hereby varied to provide that the Chargor or the Chargor's successors will, before and after default, execute and deliver such further assurances of the Mortgaged Premises and do such other acts, at the Chargor's expense, as may be required by the Chargee. The implied covenants deemed to be included in a charge under subsection 7(1) of the *Land Registration Reform Act*, as amended hereby are in addition to and shall not be interpreted to supersede or replace any of the covenants contained in this Charge which are covenants by the Chargor, for the Chargor and the Chargor's successors and assigns with the Chargee and the Chargee's successors and assigns. If any of the forms or words contained herein or any variation thereof are also contained in Column One of Schedule B of the *Short Forms of Mortgages Act, R.S.O. 1980 c.474* and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column Two of Schedule B of the said Act distinguished by the same number together with such variation, if any, and this Charge shall be interpreted in the same manner and to the same effect as if the said Act were applicable to this Charge. In the event of any conflict between any of the covenants implied by the *Land Registration Reform Act* and any other covenant or provision contained herein, such covenant or provision contained herein shall prevail.

9. **SUCCESSORS**

Notwithstanding the definition of the word "successor" in the *Land Registration Reform Act*, the word successor as used in this Charge shall include an heir, executor, administrator, personal representative or successor.

10. **CHARGE**

In consideration of the Principal Amount and other good and valuable consideration (the receipt and sufficiency whereof are hereby acknowledged by the Chargor) and as continuing security for the payment to the Chargee of the Indebtedness and to secure the performance of all of the obligations of the Chargor under this Charge or any other instrument given, issued or executed pursuant to it, the Chargor hereby charges the Mortgaged Premises with payment to the Chargee of any ultimate outstanding balance of the Indebtedness due and remaining unpaid and the performance of the Chargor's obligation hereunder, provided that such security shall be limited to the aggregate of the Principal Amount, Costs and any other charges provided for herein other amounts payable hereunder, together with interest thereon at the Interest Rate payable upon demand as herein provided and with the powers of sale hereinafter expressed.

11. **DEFEASANCE**

Provided this Charge to be void upon payment in full on demand of all Indebtedness and the performance in full of all obligations of the Chargor hereunder up to a maximum amount of the aggregate of the Principal Amount, Costs

and any other amounts payable hereunder, together with interest at the Interest Rate, which interest shall be payable, not in advance, both before and after maturity, default and judgment, from the date of demand by the Chargee for payment and Taxes and performance of statute labour and observance and performance of all covenants, provisos and conditions herein contained.

12. DEMAND

In the event that the Chargor is called upon to pay any Indebtedness in accordance with the terms under which the same is or becomes payable or in the event of the default which is continuing by the Chargor in the performance of any of the covenants of the Chargor under this Charge or any other instrument given, issued or executed pursuant to it the Chargor shall be obligated to pay and the Chargee shall be entitled to forthwith make demand for payment of all such Indebtedness and any other monies secured hereby.

13. COVENANTS OF CHARGOR

The Chargor hereby covenants, agrees and declares as follows:

- a) the Chargor shall pay to the Chargee the Indebtedness at the time or times and in the manner provided in any agreement or dealings between the Chargee and the Chargor including in this Charge, or any other instrument given, issued or executed pursuant hereto;
- b) the Chargor is the sole legal and beneficial owner of and has good title in fee simple to the Mortgaged Premises free of all encumbrances other than the Permitted Encumbrances;
- c) the Chargor has the right to charge the Mortgaged Premises to the Chargee and to give this Charge to the Chargee upon the covenants contained herein;
- d) on default, the Chargee shall have quiet possession of the Mortgaged Premises free from all encumbrances other than the Permitted Encumbrances;
- e) the Chargor will execute at the Chargor's expense such further assurances of the Mortgaged Premises as may be requisite;
- f) the Chargor has done no act to encumber the Mortgaged Premises except the Permitted Encumbrances;
- g) the Chargor shall pay as they fall due all Permitted Encumbrances and Taxes and shall not suffer any construction, statutory or other liens or rights of retention, other than Permitted Encumbrances, to remain outstanding upon any of the Mortgaged Premises;
- h) the Chargor shall not remove, destroy, lease, sell or otherwise dispose of any of the Mortgaged Premises or portion thereof or any interest therein. In the event the Mortgaged Premises or any part thereof is sold or disposed of prior to the full discharge of this Charge in any manner not authorized by this Charge, then all proceeds of such sale or disposition received by the Chargor shall be held by the Chargor as trustee for the Chargee until the Chargor has been fully released from this Charge by the Chargee;
- i) without limiting the requirement to place and keep in force insurance pursuant to the provisions of a commitment letter or loan agreement between the Chargor and the Chargee, the Chargor shall place or cause to be placed and keep in force the following insurance in respect of the said Lands, Improvements and Fixtures with a company or companies satisfactory to the Chargee and the Chargee shall receive the original policies signed by the insurer or insurers and such policies are to be in form and content satisfactory to the Chargee.
 - (i) all risk insurance policy covering the Mortgaged Premises for its full insurable value including replacement cost, stated amount, earthquake and flood coverages. The loss payable clause must be in favour of the Chargee subject to I.B.C. standard mortgage clause;
 - (ii) boiler insurance coverage for an amount satisfactory to the Chargee with a loss payable clause in favour of the Chargee, if applicable;
 - (iii) comprehensive general liability insurance in an amount satisfactory to the Chargee. The named insured must include the Chargee; and

- (iv) all cancellation clauses in the above-mentioned policies, including those contained in the mortgage clause insurance endorsements, are to provide for not less than thirty (30) days notice to the Chargee of cancellation and/or material alteration of the policies.

The Chargee shall be entitled to require coverage of such other risks and perils as the Chargee may from time to time consider advisable or desirable and in respect of which insurance coverage may be available.

The Chargor shall forthwith on the happening of any loss or damage furnish at its expense all necessary proofs and do all necessary acts to enable the Chargee to obtain payment of the insurances moneys;

- j) the Chargor shall allow any employees or authorized agents of the Chargee at any reasonable time to enter the premises of the Chargor to inspect the Mortgaged Premises including without limitation the right to undertake soil, ground water, environmental or other tests, measurements or surveys in on or below the Mortgaged Premises and to inspect the books and records of the Chargor and make extracts therefrom and shall permit the Chargee prompt access to such other persons as the Chargee may deem necessary or desirable for the purposes of inspecting or verifying any matters relating to any part of the Mortgaged Premises or the books and records of the Chargor, provided that any information so obtained shall be kept confidential, save as requested by the Chargee in exercising its rights hereunder. If an Event of Default shall have occurred and be continuing under this clause, the Chargor shall pay all costs and expenses of agents retained by the Chargee for purposes of inspection under this clause (j);
- k) the Chargor shall deliver to the Chargee such financial statements as may be provided in any commitment letter or loan agreement entered into between the Chargee and the Chargor. At a minimum and without limiting the financial reporting required under such commitment letter or loan agreement, the Chargor shall deliver to the Chargee within 90 days of the close of each financial year of the Chargor as long as any money is owing under the Charge one copy of the financial statements for that year, such financial statements to be prepared by a firm of chartered accountants. Provided however that this paragraph is subject to the provisions regarding the delivery of financing statements set out in any commitment letter or offer of finance between the Chargor and the Chargee, in which case the provisions in such commitment letter or offer to finance shall prevail;
- l) without the prior written consent of the Chargee, the Chargor shall not create or suffer to exist any charge or encumbrance over all or any portion of the Mortgaged Premises ranking or purporting to rank prior to, *pari passu* with or subordinate to the charges hereof, other than Permitted Encumbrances;
- m) the Chargor shall not grant, create, assume or permit to exist any conditional sale agreement, mortgage, pledge, charge, assignment, lease or other security, except Permitted Encumbrances, whether fixed or floating upon the whole or any part of the Mortgaged Premises. This covenant shall be a restrictive covenant for the benefit of the Chargee's interest as Chargee of the Mortgaged Premises and the burden shall run with the interest of the Chargor as owner of the Mortgaged Premises;
- n) all Fixtures are and shall, immediately on being placed upon the Mortgaged Premises, become Fixtures and a part of the Mortgaged Premises and form a part of this security and the Chargor hereby grants and releases to the Chargee all its claims upon the Mortgaged Premises subject to the proviso for Defeasance in Section 11 above;
- o) the Chargee may distrain for arrears of interest and for overdue principal and any other sum payable hereunder. The Chargor waives the right to claim exceptions and agrees that the Chargee shall not be limited in the amount for which it may distrain;
- p) the Chargee may make any payment or cure any default under any Permitted Encumbrance and may pay and satisfy the whole or any part of any liens, Taxes, charges or encumbrances now or hereafter existing in respect of the Mortgaged Premises in the event of the Chargee making any such payment or curing a default or satisfying any such liens, Taxes, charges or encumbrances it shall be entitled to all the equities and securities of the person or persons so paid and is hereby authorized to retain any discharge thereto without registration for so long as it may think fit so to do;
- q) the Chargor will keep the Mortgaged Premises in good condition and repair and shall not permit any act of waste to be committed upon the Mortgaged Premises. If the Chargor neglects to keep the Mortgaged

Premises in good condition and repair or commits or permits any act of waste on the Mortgaged Premises (as to which the Chargee shall be sole judge) the Chargee may make such repairs and replacements as it deems necessary;

- r) the Chargor shall diligently and continuously maintain, develop and construct the Improvements or cause the Improvements to be maintained, developed and constructed in accordance with plans and specifications previously approved by the Chargee, all in a good and workmanlike manner as first class buildings or Improvements and in the event that the Chargor shall fail to proceed diligently with any required work for a period of ten (10) consecutive days, the Chargee or its representatives may enter into the Mortgaged Premises and do any or all work which they may consider necessary or desirable to complete such Improvements or to protect the same from deterioration;
- s) the Chargor shall not make any material improvement, whether financed by the Chargee or otherwise, without the prior written consent of the Chargee which consent will not be unreasonably withheld or delayed and except in accordance with contracts, plans and specifications approved by the Chargee in writing prior to the commencement of work on the Improvements;
- t) the Chargor shall at all times comply with all applicable laws relating to the Mortgaged Premises, including all applicable zoning by-laws, rent control legislation and construction lien legislation;
- u) where any portion of the Improvements are to be constructed, they shall be constructed in a good and workmanlike manner using first class quality materials in accordance with the plans and specifications approved by the Chargee and shall comply with all restrictions, conditions, ordinances, codes, regulations and laws, regulations and the requirements of governmental departments and agencies having direction over, or an interest in the Lands or the Improvements;
- v) all utility services necessary for the operation and use of the Mortgaged Premises for their intended purpose, including but not limited to water supply, storm and sanitary sewer facilities, gas, electric and telephone facilities are available to the boundaries of the Lands;
- w) the Lands are contiguous to publicly dedicated streets or roads or highways and vehicular and pedestrian access thereto is permitted or, if not, are the dominant tenement of a casement or easements creating the perpetual right of such access to any such publicly dedicated streets or roads or highways;
- x) any defects in the construction or variation in the construction of any of the Improvements shall be promptly corrected by the Chargor to the satisfaction of the Chargee;
- y) any and all of the personal Mortgaged Premises, elevators, furnaces, refrigerators, ranges, hot water tanks, dishwashers, carpeting, furniture, furnishings, fixtures, attachments and equipment (collectively the "Chattels") delivered upon or attached to the Mortgaged Premises or intended to become a part thereof, will be kept free and clear of all chattel mortgages, conditional vendors liens and all liens, encumbrances and security interests other than as may be granted to the Chargee and the Chargor will be the absolute owner of the Chattels and will, from time to time, furnish the Chargee with satisfactory evidence of such ownership, including searches of applicable public records. Upon the Chargee's request, the Chargor will forthwith execute and deliver a supplemental debenture or other security instrument upon the Chattels and such other supporting documents as the Chargee may require in connection therewith, including financing statements and searches or records under any applicable legislation; and
- z) the Chargor will pay or cause to be paid as soon as the same are due all claims and demands of contractors and material men and all wages, salaries, holiday pay, workers compensation assessments or other charges or any nature or kind (the "Claims") which could in any circumstances constitute a lien or charge on the Mortgaged Premises and the Chargor will from time to time on demand provide the Chargee with such books, payrolls, or other records, receipts, certificates and declarations as the Chargee may deem necessary to satisfy itself that such Claims have been paid as soon as the same are due.

14. **QUIET POSSESSION**

Until default of payment or default in performance of its obligations under any commitment letter or offer of finance or hereunder, the Chargor shall have quiet possession of the Mortgaged Premises.

15. COMPLIANCE WITH ENVIRONMENTAL LAWS

The Chargor covenants, represents and warrants to the Chargee that:

- a) the Chargor shall conduct and maintain its business operations and the Mortgaged Premises so as to comply in all respects with all applicable Environmental Laws including obtaining all necessary licenses, permits, consents and approvals required to own or operate the Mortgaged Premises and the businesses carried on at or from the Mortgaged Premises;
- b) except as specifically permitted by the Chargee in writing, the Chargor shall not permit or suffer to exist Contaminants or dangerous or potentially dangerous conditions on or affecting the Mortgaged Premise whether on or below the surface of the Lands or located in any Fixtures including, without limitation, any materials containing gasoline, polychlorinated biphenyls or radio-active substances, underground storage tanks, asbestos or urea formaldehyde insulation;
- c) the Chargor has no knowledge of the existence of Contaminants or dangerous or potentially dangerous conditions at, on or under the Mortgaged Premises or any properties in the vicinity of the Lands which could affect the Mortgaged Premises or the market value thereof or in levels that exceed the standards in Environmental Laws;
- d) the Chargor has no knowledge of the Mortgaged Premises or any portion thereof having been used for the disposal of waste;
- e) the Chargor has not given or received, nor does it have an obligation to give, any notice, claim, communication or information regarding any past, present, planned or threatened treatment, storage, disposal, presence, release or spill of any Contaminant at, on, under or from the Mortgaged Premises or any property adjacent or proximate thereto, including any notice pursuant to any Environmental Laws or any environmental report or audit. The Chargor shall notify the Chargee promptly and in reasonable detail upon receipt of any such claim, notice, communication or information or if the Chargor becomes aware of any violation or potential violation of the Chargor of any Environmental Laws and setting forth the action which the Chargor intends to take with respect to such matter;
- f) there is no, and the Chargor has not received notice of and has no knowledge or information of any pending, contemplated or threatened litigation or claim for judicial or administrative action which would adversely affect the Mortgaged Premises or its use or market value including, without limitation, any action pending or threatened by any adjacent or affected land owner relating to the use of the Mortgaged Premises or the existence on the Mortgaged Premises of, or leakage from the Mortgaged Premises of noxious, dangerous, potentially dangerous or toxic substances;
- g) the Chargor shall promptly advise the Chargee in writing of any material adverse change in the environmental or other legal requirements affecting the Chargor or the Mortgaged Premises upon the Chargor becoming aware of any such change and the Chargor shall provide the Chargee with a copy of any of the orders, by-laws, agreements or other documents pursuant to which any such change is effected or documented;
- h) the Chargor shall, at its own expense, promptly take or cause to be taken any and all necessary remedial or clean-up action in response to the presence, storage, use, disposal, transportation, release or discharge of any Contaminant in, on, under or about any of the Mortgaged Premises, or used by the Chargor, in compliance with all material laws including, without limitation, Environmental Laws, and in accordance with the orders and directions of all applicable federal, state, provincial, municipal and local governmental authorities;
- i) the Chargor shall deliver to the Chargee a true and complete copy of all environmental audits, evaluations, assessments, studies or tests relating to the Mortgaged Premises or the Chargor now in its possession or control or forthwith after the completion thereof, or upon such materials coming into the Chargor's possession or control; and

- j) the Chargor shall at its expense, if reasonably requested by the Chargee in writing, retain an environmental consultant acceptable to the Chargee, acting reasonably, to undertake environmental tests and to prepare a report or audit with respect to the Mortgaged Premises and deliver same to the Chargee for its review,

the Chargor shall indemnify and save harmless the Chargee, its officers, directors, employees, agents and shareholders from and against all losses, liabilities, damages or costs (including legal fees and disbursements on a solicitor and own client basis) suffered including, without limitation, the cost or expense of any environmental investigation, the preparation of any environmental or similar report and the costs of any remediation arising from or relating to any breach of the foregoing covenants of this Section 15, any breach by the Chargor or any other person now or hereafter having an interest in the Mortgaged Premises which is asserted or claimed against the Chargee; the presence, in any form, of any Contaminant on or under the Mortgaged Premises, or the discharge, release, spill or disposal of any Contaminant by the Chargor which is asserted or claimed against any of these indemnified persons. This indemnity shall survive the payment in full of all amounts secured hereunder and the discharge of this Charge. The Charges shall hold the benefit of this indemnity in trust for those indemnified persons who are not parties to this Charge.

16. CONDOMINIUM

If the Mortgaged Premises or any part thereof is or becomes a unit or units in a condominium, the provisions of this section shall apply. The Chargor covenants with the Chargee that:

- a) the Chargor will promptly observe and perform all obligations imposed on the Chargor by the Condominium Act and by the Declaration, the By-laws and the Rules, as amended from time to time of the Condominium Corporation by virtue of the Chargor's ownership of the Mortgaged Premises. Any breach of the said duties and obligations shall constitute a breach of covenant under this Charge;
- b) without limiting or restricting the generality of the foregoing:
- (i) the Chargor will pay promptly when due any contributions to common expenses required of the Chargor as an owner of the Mortgaged Premises;
 - (ii) the Chargor will transmit to the Chargee forthwith upon the demand of the Chargee satisfactory proof that all common expenses assessed against or in respect of the Mortgaged Premises have been paid as assessed;
 - (iii) the Chargee may pay out of and deduct from any advance of monies secured hereunder all contributions to the common expenses assessed against or in respect of the Mortgaged Premises which have become due and payable and are unpaid at the date of such advance; and
 - (iv) whenever and so long as the Chargee so requires, the Chargor shall on or before the date when any sum becomes payable by the Chargor in respect of common expenses pay such sum to the Chargee. The Chargee shall forthwith on receipt thereof remit all such sums to the Condominium Corporation on behalf of the Chargor or as the Condominium Corporation may from time to time direct;
- c) the Chargee is hereby irrevocably authorized and empowered to exercise the right of the Chargor as the owner of the Mortgaged Premises to vote or to consent in all matters relating to the affairs of the Condominium Corporation provided that:
- (i) the Chargee may at any time or from time to time give notice in writing to the Chargor and the Condominium Corporation that the Chargee does not intend to exercise the said right to vote or consent and in that event until the Chargee revokes the said notice, the Chargor may exercise the right to vote or consent. Any such notice may be for an indeterminate period of time or for a limited period of time or for a specific meeting or matter;
 - (ii) the Chargee shall not by virtue of the assignment to the Chargee of the said right to vote or consent, be under any obligation to vote or consent or to protect the interests of the Chargor; and
 - (iii) the exercise of the said right to vote or consent shall not constitute the Chargee as a mortgagee in possession,

if the Mortgaged Premises or any part thereof shall become a unit or units in a condominium at any time after the execution and delivery of this Charge, the Chargor shall, whenever requested by the Chargee, execute and deliver any further and other charges, assurances or other instruments as the Chargee shall require in order to preserve,

protect or perfect the security provided by this Charge and each of the provisions hereof, including without limitation a further charge covering all of the units in the said condominium and their appurtenant common interest.

17. WAIVERS

The Chargee may waive in writing any breach by the Chargor of any of the provisions contained in this Charge or any default by the Chargor in the observance or performance of any covenant or condition required to be observed or performed by the Chargor hereunder, provided that no such waiver by the Chargee shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom.

18. PERFORMANCE OF COVENANTS

If the Chargor shall fail to perform any covenant on its part hereunder, the Chargee may in its absolute discretion perform any such covenant capable of being performed by it, but the Chargee shall be under no obligation to do so. If any such covenant requires the payment of money or if the Mortgaged Premises shall become subject to any encumbrance ranking in priority to the lien hereof other than a Permitted Encumbrance, the Chargee may in its absolute discretion make such payment and/or pay or discharge such encumbrance, but shall be under no obligation to do so. All sums so paid by the Chargee shall immediately be payable by the Chargor to the Chargee, shall bear interest at the Interest Rate until paid in full and shall constitute a charge upon the Mortgaged Premises. No such performance or payment shall relieve the Chargor from any default hereunder or any consequences of such default.

19. APPOINTMENT OF MONITOR

If in the opinion of the Chargee, acting reasonably, a material adverse change has occurred in the financial condition of the Chargor, or if the Chargee in good faith believes that the ability of the Chargor to pay any of its obligations to the Chargee or to perform any other covenant contained herein has become impaired, or if an Event of Default has occurred, the Chargee may by written notice to the Chargor, appoint a monitor (the "Monitor") to investigate any or a particular aspect of the Chargor or its business and affairs for the purpose of reporting to the Chargee. The Chargor shall give the Monitor its full co-operation, including full access to facilities, assets and records of the Chargor and to its creditors, customers, contractors, officers, directors, employees, auditors, legal counsel and agents. The Monitor shall have no responsibility for the affairs of the Chargor nor shall it participate in the management of the Chargor's affairs and shall incur no liability in respect thereof or otherwise in connection with the Chargor, its business and affairs or the Mortgaged Premises. The Monitor shall act solely on behalf of the Chargee and shall have no contractual relationship with the Chargor as a consultant or otherwise. The appointment of a Monitor shall not be regarded as an act of enforcement of this Charge. All reasonable fees and expenses of the Monitor (including legal fees and disbursements on a solicitor and own client basis) shall be paid by the Chargor upon submission to it of a written invoice therefor. The Chargee, at its option upon the occurrence of an Event of Default, may appoint or seek to have appointed the Monitor or Receiver, receiver and Manager, liquidator, or trustee in bankruptcy of the Chargor or the Mortgaged Premises or any part thereof.

20. CONTINUING AND ADDITIONAL SECURITY

The security hereby constituted is continuing security for the payment of all Indebtedness and the fulfillment of all of the obligations of the Chargor hereunder and such security is in addition to any other security now or hereafter held by the Chargee. The taking of any action or proceedings or refraining from so doing, or any other dealings with any other security for the moneys secured hereby, shall not release or affect the obligations of the Chargor hereunder.

21. DEFAULT

Subject to the provisions of Section 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, as amended, the security hereby created shall become enforceable in each of the following events (each event being an Event of Default herein):

- a) if the Chargee shall make an authorized and proper written demand for payment of indebtedness and payment in full has not been received by the Chargee forthwith after such demand has been made;



- b) **if the Chargor defaults in the performance of any of the terms and covenants contained in this Charge or any agreement between the Chargor and the Chargee including without limitation the Commitment Letter and/or the Promissory Note and all security and other instruments delivered pursuant thereto; [NTD: if the Chargor has also granted a Guarantee then revise all of 21b to read: if any default occurs in the performance of any of the terms and covenants contained in this Charge or any agreement between the Chargor and the Chargee and/or the Guarantor including the Commitment Letter, the Promissory Note, and/or the Guarantee];**
- c) if there is any material misrepresentation or misstatement contained in any certificate or document delivered by the Chargor or any representative of the Chargor to the Chargee in connection with this Charge;
- d) if the Chargor institutes any proceeding or takes any corporate action or executes any agreement or notice of intention to authorize its participation or commencement of any proceeding:
 - (i) seeking to adjudicate it a bankrupt or insolvent, or
 - (ii) seeking liquidation, dissolution, winding up, restructuring, reorganization, arrangement, protection, relief or composition or it or any of its property or debt or making a proposal with respect to it under any Bankruptcy Legislation;
- e) if the Chargor becomes bankrupt or insolvent or commits an act of bankruptcy or any proceeding is commenced against the Chargor:
 - (i) seeking to adjudicate it a bankrupt or insolvent;
 - (ii) seeking liquidation, dissolution, winding up, restructuring, reorganization, arrangement, protection, relief or composition of it or any of its Mortgaged Premises or debt or making a proposal with respect to it under any Bankruptcy Legislation; and
 - (iii) seeking appointment of a receiver, receiver and manager, liquidator, trustee, agent, custodian, or other similar official for it or for any part of its properties and assets, including the Mortgaged Premises or any part thereof;
- f) any order or judgment is issued by a court granting any of the relief referred to in Section 22(e);
- g) if an encumbrancer or secured creditor shall appoint a receiver or agent with respect to any part of the Mortgaged Premises or take any other similar proceedings over any part of the Mortgaged Premises, or take possession of any part of the Mortgaged Premises or if any execution, distress or other process of any court becomes enforceable against any of the Mortgaged Premises of the Chargor, or a distress or like process is levied upon any of such Mortgaged Premises;
- h) if the Chargor takes any corporate proceedings for its dissolution, liquidation or amalgamation with any company or if the corporate existence of the Chargor shall be terminated by expiration, forfeiture or otherwise;
- i) if any portion of the Mortgaged Premises is expropriated by any governmental body or authority which the Chargee in its absolute discretion considers material; and
- j) if any part of the Mortgaged Premises shall be sold, transferred or otherwise alienated or disposed of by the Chargor without the prior written consent of the Chargee, which consent shall not be unreasonably withheld or delayed.

22. REMEDIES

Upon the happening of any Event of Default, in addition to any other rights or remedies available to it hereunder or at common law or equity or pursuant to any statute, the Chargee shall have the following rights and powers:

- a) to enter upon and possess all or any part of the Mortgaged Premises;
- b) to hold, use, repair, preserve, maintain, complete, construct and build all or any part of the Mortgaged Premises and make such replacements thereof and changes or additions thereto as the Chargee shall deem advisable;

- c) In the occurrence of an Event of Default that has continued for at least 15 days, the Chargee or its agents or representatives may, on at least (35) day's notice, sell or lease the Mortgaged Premises. In the event that the giving of such notice shall not be required by law or to the extent that such requirements- shall not be applicable, it is agreed that notice may be effectually given by giving it in accordance with paragraph 39 hereof; and such notice shall be sufficient although not addressed to any person or persons by name or designation and notwithstanding that any person to be affected thereby may be unknown, unascertained or under disability. The Chargee may sell the Mortgaged Premises or any part thereof by public auction or private sale, for such price as can reasonably be obtained therefor, and on such terms as to credit and otherwise, and with such conditions of sale and stipulations as to title or evidence or commencement of title or other-wise, as it shall in its discretion deem proper, and in the event of any sale on credit or for part cash and part credit, the Chargee shall not be accountable for or charged with any moneys until actually received. The Chargee may rescind or vary any contract of sale and may buy in and resell the Mortgaged Premises or any part thereof without being answerable for loss occasioned thereby. No purchaser or lessee shall be bound to enquire into the legality, regularity or propriety of any sale or lease Or be affected by notice of any irregularity or with propriety of any kind; and no lack of default or want of notice or other requirement or any irregularity or impropriety of any kind shall invalidate any sale or lease hereunder. The Chargee may sell or lease without entering into actual possession of the Mortgaged Premises and when it desires to take possession it may break locks and bolts and while in possession or upon any sale or lease the Chargee shall be accountable only for moneys which are actually received by it. Sales may be made from time to time of parts of the Mortgaged Premises to satisfy any portion of the Indebtedness or other sums owing hereunder and leaving the Indebtedness or the residue thereof secured hereunder on the remaining Mortgaged Premises. The Chargor hereby appoints the Chargee its true and lawful attorney and agent to make application under the Planning Act and to do all things and execute all documents to effectually complete such sale. The Chargee may lease or take sale proceedings hereunder notwithstanding that other mortgage proceedings have been taken or are then pending;
- d) to appoint by instrument in writing any person or persons to be a Receiver of all or any portion of the undertaking, property and assets of the Chargor forming the Mortgaged Premises and all rents, issues, incomes and profits to be derived therefrom; to fix the Receivers remuneration and from time to time to remove any Receiver so appointed and appoint another or others in this stead;
- e) to apply to any court of competent jurisdiction for the appointment of a Receiver of all or any portion of the undertaking, property and assets hereby charged; and
- f) those rights and powers of the Receiver as described in paragraph 23.

23. POWERS OF RECEIVER

- a) Any Receiver shall have all of the powers of the Chargee set forth in this Charge and, in addition, shall have the following powers:
- (i) to carry on the business of the Chargor and to enter into any compromise or arrangement on behalf of the Chargor;
 - (ii) with the prior written consent of the Chargee, to borrow money in his name or in the Chargor's name, for the purpose of carrying on the business of the Chargor and for the preservation and realization of the undertaking, property and assets of the Chargor including, without limitation, the right to pay persons having prior Charges or encumbrances on properties on which the Chargor may hold charges or encumbrances, with any amount so borrowed and any interest thereon to be a charge upon the Mortgaged Premises in priority to this Charge;
 - (iii) to make such arrangements, at such time or times as the Receiver may deem necessary without the concurrence of any other persons, for the repairing, finishing, adding to, or putting in order the Mortgaged Premises including without restricting the generality of the foregoing to complete, with such variations, additions and deletions as the Chargee may approve, the construction of the Mortgaged Premises, or award the same to others to complete, notwithstanding that the resulting cost exceeds the principal amount hereinbefore set forth and in either of such cases, shall have the right to take possession of and use or permit others to use all or any part of the Chargor's materials, supplies, plans, tools, equipment (including appliances on the Lands) and property of every kind and description;

- (iv) to sell or lease or concur in the selling or leasing of the whole or any part of the Mortgaged Premises and in exercising the Receiver's foregoing power to sell or lease the Mortgaged Premises the Receiver may in his absolute discretion:
- (1) sell or lease the whole or any part of the Mortgaged Premises by public or private tender or by private contract;
 - (2) grant options to purchase or lease or both;
 - (3) grant rights of first refusal to purchase or lease or both;
 - (4) complete any contract for sale, lease, option or right of first refusal;
 - (5) enter into open, exclusive and multiple listing contracts for sale or lease, sign and file subdivision, condominium, strata, consolidation or other plans, plats or declarations;
 - (6) complete and file prospectuses, disclosure statements or affidavits in connection with any proposed disposition of the Mortgaged Premises or any portion or portions thereof;
 - (7) effect a sale or lease by conveying in the name of or on behalf of the Chargor or otherwise;
 - (8) make any stipulation as to title or conveyance or commencement of title;
 - (9) rescind or vary any contract of sale, lease, option or right of first refusal;
 - (10) resell or release without being answerable for any loss occasioned thereby;
 - (11) sell on terms as to credit as shall appear to be most advantageous to the Receiver and if a sale is on credit the Receiver shall not be accountable for any moneys until actually received; and
 - (12) make any arrangements or compromises which the Receiver shall think expedient.

- b) Any Receiver appointed pursuant to the provisions hereof shall be deemed to be an agent of the Chargor for the purpose of:
- (i) carrying on and managing the business and affairs of the Chargor; and
 - (ii) establishing liability for all of the acts or omissions of the Receiver while acting in any capacity hereunder and the Chargee shall not be liable for such acts or omissions, provided that, without restricting the generality of the foregoing, the Chargor irrevocably authorizes the Chargee to give instructions to the Receiver relating to the performance of its duties as set out herein.

24. ATTORNEY

The Chargor hereby irrevocably nominates, constitutes and appoints the Chargee and any person further designated by the Chargee as the true and lawful attorney of the Chargor for and in the name of the Chargor after an Event of Default has occurred and is continuing and this Charge or any other security held by the Chargee for the Indebtedness or other obligations of the Chargor has become enforceable, to execute and do any deeds, documents, transfers, demands, assignments, assurances, consents and things which the Chargor is obliged to sign, execute or do hereunder and to commence, continue and defend any proceedings authorized to be taken hereunder and generally to use the name of the Chargor in the exercise of all or any of the powers hereby conferred on the Chargor and on any Receiver appointed hereunder.

25. APPLICATION OF MONEYS

All moneys actually received by the Chargee or the Receiver pursuant to section 22 and 23 of this Charge shall be applied:

- a) first, in payment of claims, if any, of creditors of the Chargor (including any claim of the Receiver) ranking in priority to the charges created by this Charge as directed by the Chargee or the Receiver;
- b) second, in or towards payment of all applicable Costs;
- c) third, in or towards payment or satisfaction of any remaining indebtedness in such order as the Chargee in its sole discretion may determine;
- d) fourth, in or towards the payment of the obligation of the Chargor to persons, if any, with charges or security interests against the Mortgaged Premises ranking subsequent to those in favour of the Chargee; and
- e) fifth, subject to applicable law, any surplus shall be paid to the Chargor.

26. RELEASE, EXTENSIONS, etc.



The Chargee may in its sole discretion at all times release any part or parts of the Mortgaged Premises either with or without any consideration therefor, without responsibility therefor and without thereby releasing any other part of the Mortgaged Premises or any person from his obligations under this Charge, or from any of the covenants herein contained and without being accountable to the Chargor for the value thereof or for any money except that actually received by the Chargee, it being expressly agreed that every part of the Mortgaged Premises into which it is or may hereafter be divided does and shall stand charged with the whole of the amount hereby secured. The Chargee may grant time, renewals, extensions, indulgences, releases and discharges to, may take additional securities may give any securities up, may abstain from taking securities or from perfecting securities, may accept compositions, and may otherwise deal with the Chargor and all other persons and securities as the Chargee may see fit without prejudicing the rights of the Chargee under this Charge.

27. NO CHANGE IN RIGHTS

No sale or other dealing by the Chargor with the Mortgaged Premises or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or the amount or terms of any Indebtedness or of any commitment letter, or offer of finance, or note, or guarantee.

28. NON-MERGER

The taking of any judgment or the exercise of any power of seizure or sale shall not operate to extinguish the liability of the Chargor to perform its obligations hereunder or to pay the moneys hereby secured, or to pay the Obligations, nor shall the same operate as a merger of any covenant herein contained or contained in the Commitment Letter or affect the right of the Chargee to interest at the rate herein specified, nor shall the acceptance of any payment or other security constitute or create any novation, and it is further agreed that the taking of a judgment under any covenant herein contained shall not operate as a merger of such covenant or affect the Chargee's right to interest as herein provided.

The execution and delivery of this Charge or of any instruments or documents supplemental hereto shall not operate as a merger of any representation, warranty, term, condition or other provision contained in any other obligation or Indebtedness of the Chargor to the Chargee.

29. ASSIGNMENT OF RENTS

Subject to the proviso for Defeasance, and as additional and separate continuing security for the Chargor's obligations hereunder, the Chargor hereby assigns to the Chargee subject to the rights of the holders of the Permitted Encumbrances all present and future leases of the Mortgaged Premises or any part thereof, and all rents, issues, incomes and profits ("Rents") now or hereafter derived from the leases or the Mortgaged Premises or any part thereof, together with the benefit of all covenants, agreements and provisos contained in such leases. The Chargor will execute and deliver to the Chargee, from time to time, upon the request of the Chargee and at the expense of the Chargor, assignments in registrable form in the Chargee's usual form of all leases and rents relating to the Mortgaged Premises and such other notices or documents as may be required by the Chargee. Until an Event of Default occurs under the Charge, the Chargor may demand, receive, collect and enjoy the rents only as the same fall due and payable and, except for the last month's rental, not in advance, but nothing shall permit or authorize the Chargor to collect or receive rents contrary to the covenants contained herein. Nothing in this Charge shall make the Chargee responsible for the collection of rents payable under any lease of the Mortgaged Premises or any part thereof or for the performance of any covenants, terms or conditions contained in any such lease. The Chargee shall be liable to account only for such rents as actually come into its hands after the deductions of reasonable collection charges in respect thereof and may apply such rents to the repayment of the Indebtedness and Costs. Notice to tenants by the Chargee with respect to the payment to it of Rents or the collection of Rents does not constitute the Chargee as being in possession of the Mortgaged Premises.

30. THREE MONTHS INTEREST ON DEFAULT

In the Event of Default in any of the agreements with the Chargee including security agreements and the terms and conditions of these Additional Provisions, regardless of the Chargee making a demand for payment of the entire amount of the Indebtedness owed to the Chargee or a portion thereof, and regardless of the Chargee having taken any steps or proceedings to realize on its security with respect to such Indebtedness including notice having been

delivered pursuant to Section 244 of the *Bankruptcy and Insolvency Act* or Notice of Sale Under Charge/Mortgage having been issued, the Chargee shall be entitled to the greater of:

- a) three (3) months interest on the principal amount owing with respect to such Indebtedness, or
- b) the amount, if any, by which interest calculated at the Interest Rate on the outstanding principal amount of the Indebtedness exceeds the interest calculated at the "**Prevailing Rate**" as hereinafter defined on the outstanding principal amount of the Indebtedness for a term commencing when the Chargee receives payment of the outstanding principal amount of the Indebtedness to the date that the Indebtedness would be due and payable but for the Chargor's default (the "**Indebtedness Due Date**"). The Prevailing Rate means the rate at which the Chargee would then lend to the Chargor on the security of the Property for a term commencing on the date when the Chargor receives payment of the then outstanding principal amount of the Indebtedness to the Indebtedness Due Date,

whether payment shall have been received through the redemption of the Charge or other security or payment having been obtained by the Chargee by realization upon this Charge or other security.

31. **SUCCESSORS AND ASSIGNS**

The Charge including these Additional Provisions and the benefits thereof are binding upon the Chargor and Chargee and their successors and assigns. Not to limit the Chargee's rights and entitlements at law, the Chargor acknowledges and agrees that the Indebtedness, Charge including these Additional Provisions are assignable by the Chargee.

32. **INTERPRETATION**

Unless the context otherwise requires, words reporting the singular include the plural and vice-versa and words importing gender include all genders; all rights, advantages, privileges, immunities, powers and things hereby secured to the Chargee shall be equally seemed to and exercisable by its successors and assigns; all covenants and liabilities entered into or imposed hereunder upon the Chargor shall be equally binding upon his heirs, executors, administrators and assigns or successors and assigns as the case may be; all such covenants, liabilities and obligations shall be joint and several; time shall be of the essence hereof; and all provisions hereof shall have effect notwithstanding any statute to the contrary.

33. **HEADINGS**

The division of this Charge into separate sections, paragraphs and clauses and the insertion of headings are included for convenience of reference only and are not intended to affect the construction or interpretation of the Charge nor are they intended to be full or accurate descriptions of the contents.

34. **NO OBLIGATION TO ADVANCE**

Neither the execution nor registration of this Charge, nor the advance of any moneys of any amounts secured hereby shall bind the Chargee to advance any of the Principal Amount secured hereby or any part thereof; but nevertheless the charges created hereby shall take effect upon execution hereof.

35. **DISCLOSURE OF INFORMATION**

The Chargor acknowledges that pursuant to the provisions of applicable construction lien legislation, the Personal Property Security Act and other similar legislation, the Chargee may be obliged to release information relating to this Charge and the Indebtedness and any amounts advanced thereunder or secured hereby. The Chargor hereby acknowledges that the Chargee may sell, assign or securitize the subject mortgage and with respect to same may be obliged or wish to release information relating to this Charge, the Indebtedness, amounts advanced hereunder or secured hereby or incidental to the foregoing. The Chargor hereby authorizes the Chargee to release all such information and any other information it may, from time to time, be required to release by law or wish to release as aforesaid.

36. **SPOUSAL STATUS**

The Chargor shall forthwith notify the Chargee in writing of any change in the Chargor's spousal status and provide the Chargee with such further particulars as the Chargee may request.

37. DATE OF CHARGE

The Chargor and Chargee agree that the date of the Charge shall be deemed to be dated as of the date of delivery for registration of the Charge.

38. PROPER LAW

This Charge shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable herein.

39. NOTICE AND PAYMENTS

Any payments not received by the Chargee by two o'clock p.m. on a Business Day shall be deemed to have been received on the next Business Day. Any notice required or desired to be given hereunder or under any instrument supplemental or collateral hereto shall be in writing and may be given by personal delivery, by facsimile or other means of electronic communication or by sending the same by registered mail, postage prepaid, to the Chargor or the Chargee at their addresses indicated in the Computer Fields of the Charge entitled Address for Service or to such other address or addresses or email or facsimile number or numbers as the Chargor or Chargee hereto may from time to time designate to the other in accordance with this provision and, in the case of electronic communication to the facsimile numbers set forth below:

- a) in the case of the Chargee, to facsimile number 905-525-1019 or by email to kristy.cummins@tandia.com;
- b) in the case of the Chargor, by email to _____.

any notice so delivered shall be conclusively deemed given when personally delivered, any notice sent by facsimile or other means or electronic transmission shall be deemed to have been delivered on the Business Day following the sending of the notice and any notice so mailed shall be conclusively deemed given on the third Business Day following the day of mailing, provided that in the event of a known disruption of postal service, notice shall not be given by mail. Any address for notice or payments may be changed by notice given pursuant hereto.

40. CONFLICT

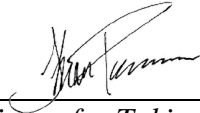
If there is conflict between the terms and conditions of the Commitment Letter or Promissory Note and the terms and conditions of these Additional Provisions then the terms and conditions of the Commitment Letter or Promissory Note shall govern.

41. SEVERABILITY

Any provisions of these Additional Provisions or a portion thereof which is determined to be void, prohibited or unenforceable, shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of these Additional Provisions.

45413727.2

This is Exhibit "F" referred to in the Affidavit of Dawood Khan sworn before me, this 28th, day of November, 2024.



Commissioner for Taking Affidavits

Properties

PIN 58552 - 0015 LT
Description LT 1 PL 1169 ORO; ORO-MEDONTE
Address 1371 HIGHWAY 11 NORTH
 ORO

Source Instruments

<i>Registration No.</i>	<i>Date</i>	<i>Type of Instrument</i>
SC1943490	2022 11 08	Charge/Mortgage

Party From(s)

Name PARKLAND COPORATION
Address for Service 6302, 333 - 96 Avenue NE Calgary, AB
 T3K 0S3 Attn: Legal Services
 Department

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

Party To(s)*Capacity**Share*

Name TANDIA FINANCIAL CREDIT UNION LIMITED
Address for Service 3455 NORTH SERVICE RD., UNIT 100, BURLINGTON,
 ONTARIO L7N 3G2

Statements

The applicant postpones the rights under the selected instrument to the rights under an instrument registered as number SC1978024 registered on 2023/05/05

Signed By

Utkrisht Saroha 102 Mincing Trail acting for Signed 2023 05 05
 Brampton Party From(s)
 L7A 4S8

Tel 416-786-1531

Fax 416-628-8162

I have the authority to sign and register the document on behalf of the Party From(s).

Submitted By

LAW OFFICE OF DR AJIT SAROHA 102 Mincing Trail 2023 05 05
 Brampton
 L7A 4S8

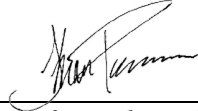
Tel 416-786-1531

Fax 416-628-8162

Fees/Taxes/Payment

<i>Statutory Registration Fee</i>	\$69.00
<i>Total Paid</i>	\$69.00

This is Exhibit "G" referred to in the Affidavit of
Dawood Khan sworn before me, this 28th, day of
November, 2024.



Commissioner for Taking Affidavits

AIRD BERLIS

Kyle Plunkett
Direct: 416.865.3406
E-mail: kplunkett@airdberlis.com

October 15, 2024

**PRIVATE & CONFIDENTIAL
DELIVERED BY EMAIL, COURIER AND REGISTERED MAIL**

2492029 ONTARIO INC.

1371 Highway 11 North,
Shanty Bay, ON L0L 2L0

7263 Second Line West
Mississauga ON L5W 1M7

Attention: Noorallah Nawrozada

Dear Mr. Nawrozada:

**Re: Tandia Financial Credit Union Limited (the “Lender”) loans to 2492029 Ontario Inc.
(the “Debtor”) as guaranteed by Noorallah Nawrozada**

We are the lawyers for the Lender in connection with its lending arrangements with the Debtor.

The Debtor is indebted to the Lender with respect to a certain credit facility (the “**Credit Facility**”) made available by the Lender to the Debtor pursuant to and under the terms of a commitment letter entered into between the Lender, as lender, and the Borrower, as borrower, dated April 13, 2023, as amended by an amending agreement dated July 14, 2024 (as amended, replaced, restated or supplemented from time to time, collectively, the “**Credit Agreement**”). All capitalized terms used but not defined herein shall have the meanings given to such terms in the Credit Agreement.

The Debtor is in default of its obligations under the Credit Agreement. The following amounts are owing to the Lender by the Debtor for principal, interest and fees, plus costs and expenses, pursuant to the Credit Agreement as of October 10, 2024 of \$1,888,443.25.

On behalf of the Lender, we hereby make formal demand for payment of \$1,888,443.25, together with accruing interest and any and all costs and expenses (including, without limitation, any additional legal and other professional fees) incurred by the Lender (collectively, the “**Indebtedness**”). Payment is required to be made immediately. Interest continues to accrue on the Indebtedness at the rates established by the Credit Agreement and any other agreement, as applicable.

The Indebtedness is secured by, *inter alia*: (i) a collateral mortgage in the amount of \$1,900,000 over the real property municipally known as 1371 Highway 11 North, Shanty Bay, Ontario; (ii) a general security agreement dated May 2, 2023, granted by the Debtor in favour of the Lender, and (iii) a general assignment of rents and leases dated May 2, 2023.

If payment of the Indebtedness is not received immediately, the Lender shall take whatever steps it may consider necessary or appropriate to collect and recover the amounts owing to it, including, without limitation, the appointment of an interim receiver, receiver and/or receiver and manager of the Debtor, in which case the Lender will also be seeking all costs associated with doing so.

On behalf of the Lender, we hereby enclose a Notice of Intention to Enforce Security delivered pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA Notice**”).

The Lender hereby reserves its rights to initiate proceedings within the ten (10) day period set out in the BIA Notice, if circumstances warrant such proceedings.

Please govern yourself accordingly.

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in blue ink, appearing to read 'K. Plunkett', is enclosed in a light blue rectangular box.

Kyle Plunkett

KP/jm
Encl.

cc: *Client*

AIRD BERLIS

NOTICE OF INTENTION TO ENFORCE SECURITY
(Bankruptcy and Insolvency Act, Subsection 244(1))

Delivered By Regular & Registered Mail

TO: **2492029 ONTARIO INC.**
1371 Highway 11 North,
Shanty Bay, ON L0L 2L0

insolvent company / person

TAKE NOTICE that:

1. Tandia Financial Credit Union Limited (the “**Lender**”), a secured creditor, intends to enforce its security on the property, assets and undertakings of 2492029 Ontario Inc. (the “**Debtor**”), including, without limiting the generality of the foregoing, all assets, undertaking and personal property of the Debtor.
2. The security that is to be enforced is in the form of, *inter alia*: (i) a collateral mortgage in the amount of \$1,900,000 over the real property municipally known as 1371 Highway 11 North, Shanty Bay, Ontario; (ii) a general security agreement dated May 2, 2023, granted by the Debtor in favour of the Lender, and (iii) a general assignment of rents and leases dated May 2, 2023 (together, the “**Security**”).
3. As at October 10, 2024, the total amount of the indebtedness secured by the Security is the sum of \$1,888,443.25 in principal and interest, plus accruing interest and recovery costs and fees of the Lender (including, without limitation, the Lender’s legal and other professional fees).
4. The Lender will not have the right to enforce the Security until after the expiry of the ten (10) day period after this notice is sent, unless the Debtor consents to an earlier enforcement.

DATED at Toronto this 15th day of October, 2024.

TANDIA FINANCIAL CREDIT UNION LIMITED
by its lawyers, **Aird & Berlis LLP**

Per:



Kyle Plunkett

Brookfield Place, Suite 1800
181 Bay Street, Box 754
Toronto, ON M5J 2T9
Tel: 416-863-1500
Fax: 416-863-1515

Note: This Notice is given for precautionary purposes only and there is no acknowledgement that any person to whom this Notice is delivered is insolvent, or that the provisions of the *Bankruptcy and Insolvency Act* apply to the enforcement of this security.

62054936.1



Kyle Plunkett
Direct: 416.865.3406
E-mail: kplunkett@airdberlis.com

October 15, 2024

**PRIVATE & CONFIDENTIAL
DELIVERED BY EMAIL, COURIER AND REGISTERED MAIL**

Noorallah Nawrozada.
7263 Second Line West
Mississauga ON L5W 1M7

Attention: Noorallah Nawrozada

Dear Mr. Nawrozada:

**Re: Tandia Financial Credit Union Limited (the “Lender”) loans to 2492029 Ontario Inc.
(the “Debtor”) as guaranteed by Noorallah Nawrozada (the “Guarantor”)**

We are the lawyers for the Lender in connection with its lending arrangements with the Debtor.

The Debtor is indebted to the Lender with respect to a certain credit facility (the “**Credit Facility**”) made available by the Lender to the Debtor pursuant to and under the terms of a commitment letter entered into between the Lender, as lender, and the Borrower, as borrower, dated April 13, 2023, as amended by an amending agreement dated July 14, 2024 (as amended, replaced, restated or supplemented from time to time, collectively, the “**Credit Agreement**”). All capitalized terms used but not defined herein shall have the meanings given to such terms in the Credit Agreement.

Certain defaults have occurred under the Credit Agreement. The following amounts are owing to the Lender by the Debtor for principal, interest and fees, plus costs and expenses, pursuant to the Credit Agreement as of October 10, 2024 of \$1,888,443.25.

You became a guarantor of the obligations of the Debtor under an Unlimited Guarantee dated May 2, 2023 (the “**Guarantee**”).

On behalf of the Lender, we hereby make formal demand for payment of \$1,888,443.25, together with accruing interest and any and all costs and expenses (including, without limitation, any additional legal and other professional fees) incurred by the Lender (collectively, the “**Indebtedness**”). Payment is required to be made immediately. Interest continues to accrue on the Indebtedness at the rates established by the Credit Agreement, the Guarantee and any other agreement, as applicable.

If payment of the Indebtedness is not received immediately, the Lender shall take whatever steps it may consider necessary or appropriate to collect and recover the amounts owing to it, including, without limitation, the commencement of civil legal proceedings against you as a Guarantor, in which case the Lender will also be seeking all costs incurred in doing so.

Please govern yourself accordingly.

Yours truly,

AIRD & BERLIS LLP

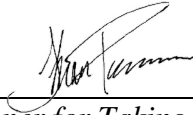
A handwritten signature in blue ink, appearing to read "K. Plunkett", is displayed on a light blue rectangular background.

Kyle Plunkett

KP/sfp
Encl.

cc: *Client*
62100664.1

This is Exhibit "H" referred to in the Affidavit of
Dawood Khan sworn before me, this 28th, day of
November, 2024.



Commissioner for Taking Affidavits

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

2492029 ONTARIO INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

**CONSENT TO ACT AS
COURT-APPOINTED RECEIVER**

BDO CANADA LIMITED hereby consents to act as the court-appointed receiver, without security, over all of the assets, undertakings and properties of 2492029 Ontario Inc. pursuant to the terms of an order substantially in the form filed in the above proceeding.

Dated at Toronto, Ontario this 26th day of November, 2024.

BDO CANADA LIMITED



Per: _____

Name: Chris Mazur

Title: Senior Vice President

I have authority to bind the Corporation.

Applicant

Respondent

Court File No. CV-24-00731891-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

**AFFIDAVIT OF DAWOOD KHAN
(sworn November 28, 2024)**

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle Plunkett (LSO#: 61044N)
Tel: 416.865.3406
Email: kplunkett@airdberlis.com

Shaun Parsons (LSO # 81240A)
Tel: (416) 637-7982
Email: sparsons@airdberlis.com

Lawyers for Tandia Financial Credit Union Limited.

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) WEDNESDAY, THE 4TH
)
JUSTICE) DAY OF DECEMBER, 2024
)

B E T W E E N :

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

2492029 ONTARIO INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) 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**

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant, Tandia Financial Credit Union Limited (the “**Lender**”), for an Order pursuant to section 243(1) 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 (the “**CJA**”) appointing BDO Canada Limited (“**BDO**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of 2492029 Ontario Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day by way of judicial video conference in Toronto, Ontario.

ON READING the affidavit of Dawood Khan sworn November 28, 2024 and the Exhibits thereto and on hearing the submissions of counsel for the Lender, no one else appearing although duly served as appears from the affidavit of service sworn, and on reading the consent of BDO to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof and the real property municipally known as 1371 Highway 11 North, Shanty Bay, Ontario, legally described in Schedule “B” hereto (the “**Real Property**”) and all proceeds thereof (collectively, the “**Property**”).

RECEIVER’S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent

security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby

conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$150,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or

affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court

upon application by the Receiver on at least two (2) day's notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor, if any, shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in

respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA AND ANTI-SPAM LEGISLATION

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

16. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release

or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

18. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER’S ACCOUNTS

19. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

20. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Ontario Superior Court of Justice (Commercial List).

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

LISTING OF THE REAL PROPERTY

26. **THIS COURT ORDERS** the Receiver may, without further order of the Court, enter into a listing agreement for the sale of the Real Property (the "**Listing Agreement**") with a broker or realtor approved by the Receiver and take such additional steps and execute such additional documents as may be necessary or desirable to implement the Listing Agreement.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at [https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part III The E-Service List/](https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part_III_The_E-Service_List/)) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol and shall be accessible by selecting the Debtor's name from the engagement list at the following URL <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements>

28. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business

day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

29. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

32. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estates with such priority and at such time as this Court may determine.

34. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party

likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

35. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties of 2492029 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof and the real property municipally known as 1371 Highway 11 North, Shanty Bay, Ontario (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 4th day of December, 2024 (the "**Order**") made in an action having Court file number CV-24-00731891-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$200,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

**BDO Canada Limited., solely in its capacity
as Receiver of the Property, and not in its
personal capacity**

Per: _____

Name:

Title:

SCHEDULE "B"

LEGAL DESCRIPTION OF REAL PROPERTY

PIN: 58552-0015 (LT)

DESCRIPTION: LT 1 PL 1169 ORO; ORO-MEDONTE

MUNICIPAL ADDRESS: 1371 Highway 11 North, Shanty Bay, Ontario

TANDIA FINANCIAL CREDIT UNION LIMITED

-and-

2492029 ONTARIO INC.

Applicant

Respondent

Court File No. CV-24-00731891-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT TORONTO

ORDER
(APPOINTING RECEIVER)

AIRD & BERLIS LLP
BARRISTERS AND SOLICITORS
BROOKFIELD PLACE
181 BAY STREET, SUITE 1800
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Lawyers for the Applicant

TAB 4

Revised: January 21, 2014
~~s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver~~

Court File No. — CV-24-00731891-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) ~~WEEKDAY~~ WEDNESDAY, THE #
JUSTICE) 4TH
)
DAY OF ~~MONTH~~ DECEMBER,
20YR2024

~~PLAINTIFF~~[†]

Plaintiff

B E T W E E N :

TANDIA FINANCIAL CREDIT UNION LIMITED

Applicant

- and -

~~DEFENDANT~~

Defendant

2492029 ONTARIO INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) 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

~~†—The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

ORDER
(~~appointing~~Appointing Receiver)

THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~²Applicant, Tandia Financial Credit Union Limited (the "Lender"), for an Order pursuant to section 243(1) 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 (the "CJA") appointing ~~[RECEIVER'S NAME]~~BDO Canada Limited ("BDO") as receiver ~~[and manager]~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~2492029 Ontario Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day ~~at 330 University Avenue,~~by way of judicial video conference in Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~Dawood Khan sworn ~~[DATE]~~November 28, 2024 and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~the Lender, no one else appearing ~~for [NAME]~~ although duly served as appears from the affidavit of service ~~of [NAME]~~ sworn ~~[DATE]~~, and on reading the consent of ~~[RECEIVER'S NAME]~~BDO to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application is hereby abridged and validated³ so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

²~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

³~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~BDO is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof ~~(and the "Property"~~real property municipally known as 1371 Highway 11 North, Shanty Bay, Ontario, legally described in Schedule "B" hereto (the "Real Property") and all proceeds thereof (collectively, the "Property")).

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise

of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

~~⁴This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

(k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

(i) without the approval of this Court in respect of any transaction not exceeding \$~~_____~~50,000, provided that the aggregate consideration for all such transactions does not exceed \$~~_____~~150,000; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~f~~or section 31 of the Ontario *Mortgages Act*, as the case may be,⁵ shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply.~~

(l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

(m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

(n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

⁵ ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “Persons” and each being a “Person”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or

affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court

upon application by the Receiver on at least two (2) ~~days~~day's notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor, if any, shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in

respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA AND ANTI-SPAM LEGISLATION

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a **“Sale”**). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

16. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. ~~16.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, **“Possession”**) of any of the Property that might be environmentally contaminated,

might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

18. ~~17.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

19. ~~18.~~ **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and

encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.⁶

20. ~~19.~~ **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass ~~its~~their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the ~~Commercial List of the~~ Ontario Superior Court of Justice (Commercial List).

21. ~~20.~~ **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

22. ~~21.~~ **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~_____~~200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the ~~"Receiver's Borrowings Charge"~~"Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

⁶ ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

23. ~~22.~~ **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. ~~23.~~ **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

25. ~~24.~~ **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

LISTING OF THE REAL PROPERTY

26. **THIS COURT ORDERS** the Receiver may, without further order of the Court, enter into a listing agreement for the sale of the Real Property (the "Listing Agreement") with a broker or realtor approved by the Receiver and take such additional steps and execute such additional documents as may be necessary or desirable to implement the Listing Agreement.

SERVICE AND NOTICE

27. ~~25.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at ~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/#Part_III_The_E-Service_List/) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules ~~of Civil Procedure~~. Subject to Rule 3.01(d) of the Rules ~~of Civil Procedure~~ and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol ~~with~~ and shall be accessible by selecting the

Debtor's name from the engagement list at the following URL
<https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements>

28. ~~26.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

29. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

31. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

32. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~application, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~Applicant's security or, if not so provided by the ~~Plaintiff~~Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's ~~estate~~estates with such priority and at such time as this Court may determine.

34. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

35. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. from today's date and is enforceable without the need for entry and filing.

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ BDO Canada Limited, the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of 2492029 Ontario Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof and the real property municipally known as 1371 Highway 11 North, Shanty Bay, Ontario (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 4th day of December, 2024 (the "Order") made in an action having Court file number CV-24-00731891-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ 200,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

~~[RECEIVER'S NAME]~~ BDO Canada Limited., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"

LEGAL DESCRIPTION OF REAL PROPERTY

PIN: 58552-0015 (LT)

DESCRIPTION: LT 1 PL 1169 ORO; ORO-MEDONTE

MUNICIPAL ADDRESS: 1371 Highway 11 North, Shanty Bay, Ontario

TANDIA FINANCIAL CREDIT UNION LIMITED

-and-

2492029 ONTARIO INC.

Applicant

Respondent

Court File No. CV-24-00731891-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

ORDER
(APPOINTING RECEIVER)

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Lawyers for the Applicant

Document comparison by Workshare Compare on November 28, 2024 12:07:02 PM

Input:	
Document 1 ID	iManage://cloudimanager.com/cm/62539414/1
Description	#62539414v1<cloudimanager.com> - Model Order(52349931.1)
Document 2 ID	iManage://cloudimanager.com/cm/62350731/1
Description	#62350731v1<cloudimanager.com> - Draft Order (Appointing Receiver)
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	187
Deletions	161
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	348

TANDIA FINANCIAL CREDIT UNION LIMITED

- and -

2492029 ONTARIO INC.

Applicant

Respondent

Court File No. CV-24-00731891-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

APPLICATION RECORD
(returnable upon scheduling returnable
December 4, 2024 at 10:00 AM)

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Lawyers for the Tandia Financial Credit Union Limited