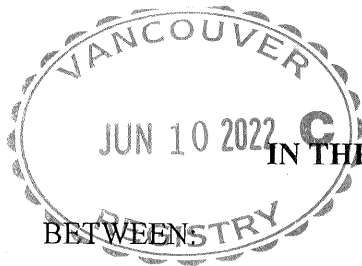


This is the 1<sup>st</sup> Affidavit of Trevor Herr  
in this case and was made on June 8, 2022

NO. VLC-S-H-220132  
VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

INSTITUTIONAL MORTGAGE CAPITAL CANADA INC., IN ITS  
CAPACITY AS GENERAL PARTNER OF IMC LIMITED PARTNERSHIP

PETITIONER

AND:

0876242 B.C. LTD.  
GATEWAY DEVELOPMENT LIMITED PARTNERSHIP  
SEEB CAPITAL LTD.  
MARK VANRY

RESPONDENTS

### AFFIDAVIT

I, Trevor Herr, of Suite 1900, 199 Bay Street, in the City of Toronto, in the Province of Ontario,  
SWEAR THAT:

1. I am the Senior Underwriter of the Petitioner, Institutional Mortgage Capital Canada Inc., a general partner of IMC Limited Partnership (“**IMC**”) and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.
2. I am authorized to make this Affidavit on behalf of the Petitioner.

#### *The Project*

3. This proceeding concerns the construction of a six storey mixed commercial and industrial strata development (the “**Project**”) located at 3333 Bridgeway Street in Vancouver British Columbia (the “**Project Lands**”) and which was scheduled to complete in the Spring of 2020. The Respondent, 0876242 B.C. Ltd. (“**087**”) is the registered owner of the Project Lands as nominee and bare trustee for Gateway Development Limited Partnership (the “**LP**”, who together with 087 is collectively hereafter referred to as “**Gateway**”). Prism Construction Ltd. (“**Prism**”) is the general contractor for the Project.

### ***Balances Owing***

4. As at June 1, 2022, Gateway is indebted to the Petitioner as follows:
- (a) \$30,901,641.59 on account of the Construction Loan (as defined in the Petition); and
  - (b) \$4,633,204.96 on account of the Cost Overrun Facility (as defined in the Petition).

Attached hereto and marked as **Exhibit “A”** (*Exhibit Page 1*) is a true copy of a payout statement forwarded by the Petitioner to Gateway on May 20, 2022.

5. Attached hereto and marked on **Exhibit “B”** (*Exhibit Page 3*) are copies of the invoices totalling \$13,781.52 from MKT Development Group Inc. referenced in the aforementioned payout and payable by Gateway (and secured by IMC’s security) pursuant to the Extension Letters and Forbearance Agreements set out below.

### ***Post-Default Extension Letters and Forbearance Agreements***

6. Due to various disputes between Gateway and Prism, construction delays and cost overruns between 2020 and 2022, together with CPLs registered on title to the Project Lands, Gateway executed the following Extension Letters and Forbearance Agreements:
- (a) Extension Letter dated May 28, 2021, attached hereto and marked as **Exhibit “C”** (*Exhibit Page 7*);
  - (b) Second Extension Letter dated September 1, 2021, attached hereto and marked as **Exhibit “D”** (*Exhibit Page 17*);
  - (c) Forbearance Agreement dated November 8, 2021, attached hereto and marked as **Exhibit “E”** (*Exhibit Page 27*); and
  - (d) Supplemental Forbearance Agreement dated January 20, 2022, attached hereto and marked as **Exhibit “F”** (*Exhibit Page 40*).

### ***The Receivership Order***

7. On May 10, 2022, the Honourable Mr. Justice Wilson made an Order appointing the Bowra Group Inc. as the Receiver-Manager over the Project given the Project had stalled as a result of, among other things, a funding shortfall to complete the Project, ongoing disputes with Prism resulting in builders’ liens together with a CPL on title preventing sub-division of the Project Lands into individual strata lots.

## *Equity*

8. Cushman and Wakefield ULC (“**Cushman**”), the real estate brokers retained by Gateway to market and sell the Project Lands, estimate that the gross revenue of the remaining four unsold units on the Project’s sixth floor to be between \$700 and \$800 per square foot. Attached hereto and marked as **Exhibit “G”** (*Exhibit Page 46*) is Cushman’s letter dated January 14, 2022, setting out same.

9. Attached hereto and marked as **Exhibit “H”** (*Exhibit Page 49*) is IMC’s net revenue projections (the “**Net Revenue Projections**”) based on Gateway’s current pre-sale contracts of purchase and sale and gross sale prices of the remaining sixth floor units within the estimated sale range provided by Cushman (\$700-\$800/sq.ft.) as well as at \$850/sq.ft. for these units.

10. Attached hereto and marked as **Exhibit “I”** (*Exhibit Page 52*) is a copy of the Contract of Purchase and Sale for the second floor entered into between Gateway and NYX Capital Investments Corp. for a purchase price of \$6.7 million. However, \$1.9 million of the purchase price is not being paid in cash but rather by way of 1,900 Class C Units in a limited partnership to be formed for the purpose of owing the second floor, along with floors three to five of the Project.

11. As at June 1, 2022, IMC is owed approximately \$35.5 million with interest accruing at roughly \$239,000/month<sup>1</sup>. Based on the Net Revenue Projections, the equity in the Project, before completion costs and Receiver’s fees & disbursements, is projected as follows;

<u>Price Per Square Foot</u>	<u>Net Proceeds<sup>2</sup></u>	<u>Balance due to IMC (as at 06/01/2022)</u>	<u>Approximate Equity<sup>3</sup></u>
\$700	\$35,584,130	\$35,534,846	\$49,284
\$750	\$35,977,051	\$35,534,846	\$442,205
\$775	\$36,173,511	\$35,534,846	\$638,665
\$800	\$36,369,971	\$35,534,846	\$835,125
\$850	\$36,762,892	\$35,534,846	\$1,228,046


<sup>1</sup> Higher than earlier projected due to recent June, 2022 increase in TD Canada Trust prime rate upon which Construction Loan rate is based.

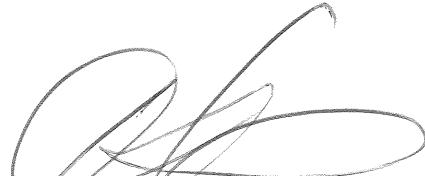
<sup>2</sup> Based on remaining unsold units selling at price/sq. ft. in left column.

<sup>3</sup> Before Project completion costs, Receiver’s fees & disbursements and ongoing interest accrual from June 1, 2022 onwards.

12. I swear this Affidavit in support of IMC's application for an Order Nisi, shortened redemption period and power of sale in favour of the Receiver.

AFFIRMED BEFORE ME at the City of )  
Toronto, in the Province of Ontario, on June )  
8, 2022 )

  
\_\_\_\_\_)  
A Notary Public or Commissioner for taking )  
Affidavits for and in the Province of Ontario )

  
\_\_\_\_\_)  
TREVOR HERR )

NO. VLC-S-H-220132  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

INSTITUTIONAL MORTGAGE CAPITAL  
CANADA INC., IN ITS CAPACITY AS  
GENERAL PARTNER OF IMC LIMITED  
PARTNERSHIP

PETITIONER

AND:

0876242 B.C. LTD.  
GATEWAY DEVELOPMENT LIMITED  
PARTNERSHIP  
SEEB CAPITAL LTD.  
MARK VANRY

RESPONDENTS

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**AFFIDAVIT**



Suite 1600 Cathedral Place  
925 West Georgia Street,  
Vancouver BC V6C 3L2  
Phone: 604-685-3456  
Attention: Bryan C. Gibbons

This is **Exhibit "A"** referred to in the  
affidavit of Trevor Herr

sworn this <sup>8<sup>th</sup></sup> day of June 2022.

A handwritten signature in black ink, appearing to be 'M. D.', written over a horizontal dotted line.

A Commissioner for taking Affidavits  
within Ontario

## GATEWAY DEVELOPMENT - FIRST MORTGAGE

Principal Balance as at	June 1, 2022	29,149,947.89
Accrued Interest to	June 1, 2022	1,403,847.99
Compound Interest to	June 1, 2022	30,544.81
Extension Fee due May 1, 2021 plus accrued interest to	June 1, 2022	134,399.48
Extension Fee due September 1, 2021 plus accrued interest to	June 1, 2022	74,926.86
Forbearance Fee due November 2, 2021 plus accrued interest to	June 1, 2022	25,954.64
Forbearance Fee due January 1, 2022 plus accrued interest to	June 1, 2022	25,879.53
Legal Invoice dated April 28, 2022 from Lawson Lundell LLP	*	42,558.86
Consulting costs due to MKT Development Group Inc.	*	13,781.52
		<hr/>
Total Outstanding as at	June 1, 2022	<u>30,901,641.59</u>

The above is subject to the following:

1. Adjustments for any errors and omissions in above numbers.
2. Additional accrued and compound interest to date Loan repaid.
3. Unbilled and ongoing legal costs, receiver costs and additional expenses incurred by the lender.\*

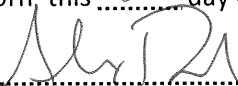
## GATEWAY DEVELOPMENT - 2ND MORTGAGE

Principal Balance and Capitalized Interest as at	June 1, 2022	4,102,542.06
Accrued Interest at 15% per annum to	June 1, 2022	417,494.48
Compound Interest at 15% per annum to	June 1, 2022	19,669.14
Extension Fee due May 1, 2021 plus accrued interest to	June 1, 2022	17,793.05
Extension Fee due September 1, 2021 plus accrued interest to	June 1, 2022	8,562.15
Deferred Commitment Fee due October 1, 2021 plus accrued interest to	June 1, 2022	65,426.64
Loan Administration Fee due October 1, 2021 plus accrued interest to	June 1, 2022	1,717.45
Total Outstanding as at	June 1, 2022	<u>4,633,204.96</u>

The above is subject to the following:

1. Adjustments for any errors and omissions in above numbers.
2. Additional accrued and compound interest to date Loan repaid.
3. Unbilled and ongoing legal costs, receiver costs and additional expenses incurred by the lender.

This is **Exhibit "B"** referred to in the  
affidavit of Trevor Herr  
sworn, this <sup>8<sup>th</sup></sup> day of June 2022.

  
.....  
A Commissioner for taking Affidavits  
within Ontario





www.mkt.ca

**INVOICE # 5122**  
 PROJECT 1-400  
 February 28, 2022

**IMC Limited Partnership, By Its General Partner,  
 Institutional Mortgage Capital Canada Inc. ("IMC")**  
 TD Centre, TD North Tower  
 77 King Street West  
 Suite 4120, PO Box 117  
 Toronto, Ontario M5K 1G8

**Attn: Alison Duffy, Trevor Herr, and Darren Schmidt**

**Re: The Gateway Project, 3333 Bridgeway Street, Vancouver, B.C.**

Work performed as required under the Project Management agreement description.

Michael Kime	3.00 hours @ \$200/hr.	\$	600.00	
Caroline Taylor	48.00 hours @ \$170/hr.	\$	8,160.00	
		\$	8,760.00	\$ 8,760.00

TOTAL BILLING:	\$ 8,760.00
Plus 5% GST (88049 9264)	\$ 438.00
TOTAL THIS INVOICE:	<u>\$ 9,198.00</u>

Payment due upon receipt.

Wire Payment Received May 6, 2022 -\$ 8,079.48

**Inv. #5122 Balance Outstanding \$ 1,118.52**

**MKT development group inc.**  
 Suite 700 - 736 Granville Street  
 Vancouver, B.C. V6Z 1G3  
 T: 604.669.9400 F: 604.669.9410



www.mkt.ca

**INVOICE # 5132**  
 PROJECT 1-400  
 March 31, 2022

**IMC Limited Partnership, By Its General Partner,  
 Institutional Mortgage Capital Canada Inc. ("IMC")**  
 TD Centre, TD North Tower  
 77 King Street West  
 Suite 4120, PO Box 117  
 Toronto, Ontario M5K 1G8

**Attn: Alison Duffy, Trevor Herr, and Darren Schmidt**

**Re: The Gateway Project, 3333 Bridgeway Street, Vancouver, B.C.**

Work performed as required under the Project Management agreement description.

Michael Kime	6.00 hours @ \$200/hr.	\$	1,200.00	
Caroline Taylor	45.00 hours @ \$170/hr.	\$	7,650.00	
		\$	<u>8,850.00</u>	\$ 8,850.00

TOTAL BILLING:  
 Plus 5% GST (88049 9264)  
 TOTAL THIS INVOICE:

\$	<u>8,850.00</u>
\$	<u>442.50</u>
\$	<u><u>9,292.50</u></u>

Payment due upon receipt.

**MKT development group inc.**  
 Suite 700 - 736 Granville Street  
 Vancouver, B.C. V6Z 1G3  
 T: 604.669.9400 F: 604.669.9410



www.mkt.ca

INVOICE # 5142  
PROJECT 1-400  
April 30, 2022

**IMC Limited Partnership, By Its General Partner,  
Institutional Mortgage Capital Canada Inc. ("IMC")**  
TD Centre, TD North Tower  
77 King Street West  
Suite 4120, PO Box 117  
Toronto, Ontario M5K 1G8

**Attn: Alison Duffy, Trevor Herr, and Darren Schmidt**

**Re: The Gateway Project, 3333 Bridgeway Street, Vancouver, B.C.**

Work performed as required under the Project Management agreement description.

Michael Kime	5.00 hours @ \$200/hr.	\$	1,000.00		
Caroline Taylor	13.00 hours @ \$170/hr.	\$	2,210.00		
		\$	3,210.00	\$	3,210.00

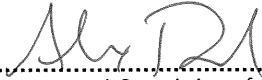
TOTAL BILLING:  
Plus 5% GST (88049 9264)  
TOTAL THIS INVOICE:

\$	3,210.00
\$	160.50
\$	3,370.50

Payment due upon receipt.

**MKT development group inc.**  
Suite 700 - 736 Granville Street  
Vancouver, B.C. V6Z 1G3  
T: 604.669.9400 F: 604.669.9410

This is **Exhibit "C"** referred to in the  
affidavit of Trevor Herr  
sworn this <sup>8<sup>th</sup></sup>..... day of June 2022.

  
.....  
A Commissioner for taking Affidavits  
within Ontario

**IMS** INSTITUTIONAL  
MORTGAGE  
SERVICING

TD Centre, TD North Tower, 77 King Street West  
Suite 4120, P.O. Box 117, Toronto, ON M5K 1G8

May 28, 2021

0876242 B.C. Ltd.  
Gateway Development Limited Partnership  
328 West 2nd Avenue  
Vancouver, BC  
V5Y 1C8

RE: IMS Loan Nos.: 300-0063 and 300-0147  
Borrower: 0876242 B.C. Ltd.  
Beneficial Owner: Gateway Development Limited Partnership  
Property: Construction Project (the "Project") at 3333 Bridgeway Street,  
Vancouver, BC  
Subject: Extension Letter

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Dear Sirs:

0876242 B.C. Ltd. (the "Borrower") is indebted to Institutional Mortgage Capital Canada Inc. as a general partner of IMC Limited Partnership (the "Lender") pursuant to the following:

1. a first mortgage construction loan (the "Construction Loan"), made pursuant to a commitment letter dated February 28, 2018, as amended March 12, 2018, January 31, 2020 and September 3, 2020 (collectively, the "Construction Loan Commitment Letter"), with an outstanding principal balance owing to the Lender of \$25,054,383.47 as at May 1, 2021, with interest currently at 6.50% per annum.
2. a cost overrun facility (the "Cost Overrun Facility", and together with the Construction Loan, the "Mortgage Loans") made pursuant to a commitment letter dated September 3, 2020 (the "Cost Overrun Commitment Letter", and together with the Construction Loan Commitment Letter, the "Commitment Letters"), with an outstanding principal balance owing to the Lender of \$3,066,217.24 as at May 1, 2021, with interest at 15% per annum.

The collective balances owing to the Lender by the Borrower, pursuant to the Mortgage Loans are hereinafter referred to as the "Mortgage Loan Indebtedness".

The Mortgage Loans are secured by, *inter alia*:

- (i) a Mortgage and Assignment of Rents registered in the Vancouver Land Title Office under registration numbers CA6681010 and CA681011 with expressed mortgage terms attached thereto; and
  - (ii) a Mortgage registered in the Vancouver Land Title Office under registration number 8430043 with express mortgage terms attached thereto;
- (the "Mortgages")

over the property civically and legally described as:

3333 Bridgeway Street, Vancouver, British Columbia

- 2 -

PID: 011-154-551  
 Block K, Except Part on Reference Plan 8675, Now Lane Town of Hastings Plan 5461  
 (the "Property").

The Borrower failed to repay the Mortgage Loans on their maturity date, being May 1, 2021 (the "Loan Default"), which for greater certainty, does not include any other default by the Borrower or any other Borrower Entity (as defined below) under the Mortgage Loans or any Loan Documents (as defined in the Commitment Letters).

At the Borrower's request, the Lender previously granted an extension to the Construction Loan, and in addition, granted the Cost Overrun Facility. The Borrower hereby acknowledges the Mortgage Loan Indebtedness is owing to the Lender and confirms the validity and enforceability of the Loan Documents and the Lender's security.

The Borrower has been unable to complete construction of the Project and repay the Mortgage Loan Indebtedness in full by the extended Maturity Date of May 1, 2021, and has requested a further extension of the Maturity Date to September 1, 2021.

The Lender hereby offers to extend the Mortgage Loans upon and subject to the terms and conditions set out in this Extension Letter, including the further terms and conditions set out in **Schedule "A"** and **Schedule "B"** attached hereto.

1. **General** Terms not specifically defined herein shall have the same meanings as set forth in the Commitment Letters, the Mortgages or the Loan Documents. Except as otherwise expressly provided herein, the terms of the Commitment Letters, the Mortgages and the Loan Documents shall remain unamended and in full force and affect.
2. **Parties** The Borrower, Gateway Development Limited Partnership, Port Capital Development Inc. and Macario Teodoro (Tobi) Reyes (individually and collectively, a "Borrower Entity") and the Lender. "Servicer" means Institutional Mortgage Servicing Canada Inc., as general partner of IMS Limited Partnership.
3. **Loan Amendments** The amendments to the Mortgage Loans are summarized below and are subject to the satisfaction of all conditions set out in this Extension Letter, including the additional terms set out in **Schedule "A"** and **Schedule "B"** attached hereto:  
  
**Maturity Date:** The maturity date of the Mortgage Loans shall be extended from May 1, 2021 to September 1, 2021 (the "Extension Period").
4. **Extension Fees, Costs and Expenses** The following amounts shall be paid to the Lender in consideration for the Lender entering into this Extension Letter. All such fees will be earned by the Lender upon execution and delivery of this Extension Letter and, until paid to the Lender, will be added to the Mortgage Loan Indebtedness and secured by the Lender's security.
  - (a) **Extension Fee** 0.50% of the Mortgage Loan Indebtedness as of May 1, 2021 (the "Extension Fee"), which fee will be capitalized by the Lender under each of the Mortgage Loans and added to the Mortgage Loan Indebtedness owing under each, respectively, and secured by the Lender's security.

Notwithstanding the foregoing, the Borrower has the option to pay to the Lender

- 3 -

two Working Capital Injections of

(a) \$125,000 on June 25, 2021; and

(b) \$125,000 on July 23, 2021.

(the "Working Capital Injections")

The Working Capital Injections shall be held by the Lender as additional security for the Mortgage Loan Indebtedness, and the Lender shall be entitled to draw upon these amounts at its option and in its sole discretion to satisfy payment of any amounts coming due under the Mortgage Loans, from time to time.

If the Borrower pays the Working Capital Injections to the Lender by the above-captioned dates, the Lender shall waive 0.125% of the Extension Fee per payment for a total possible fee deduction of 0.25% (the "Fee Deduction").

The Working Capital Injections shall be sent via wire transfer to the following account:

Beneficiary Name:	IMS Limited Partnership
Beneficiary Address:	TD Centre, TD North Tower, 77 King Street W., Suite 4120, Toronto, ON
Bank Name:	TD CANADA TRUST
Bank Address:	55 King Street West, Toronto, ON
Swift Code:	TDOMCATTOR
Bank #:	004
Transit #:	19922
Account #:	5279563

(b) Lender's Legal Fees The legal fees and disbursements incurred by the Lender, on a solicitor and own client basis, plus applicable taxes, in connection with the Mortgage Loan Indebtedness, the Loan Default and the negotiation and settlement of this Extension Letter, which amount shall be payable by the Borrower on the date of execution of this Extension Letter.

(c) MKT Development Group Inc. Fees MKT Development Group Inc.'s monthly fees up to a maximum of \$9,750.00 plus applicable taxes shall be continued to be paid from the existing project monitor cost reserve for the duration of the Extension Period.

The Borrower irrevocably acknowledges and agrees with the Lender that all such amounts in clauses (a) and (b) above are due and owing by the Borrower to the Lender and form part of the Mortgage Loan Indebtedness. Said amounts shall be non-refundable and deemed to be fully earned on the execution of the Extension Letter. The Borrower also hereby undertakes to pay all future professional and legal fees and disbursements incurred by the Lender, on a solicitor and own client basis, in connection with the Loan Default, this Extension Letter and all matters relating thereto from time to time, which amounts shall be payable by the Borrower on a monthly basis. In the event that such fees are not paid when due, then the Lender may add same to the Mortgage Loan Indebtedness at which time such fees shall be secured by the Lender's security.

- 4 -

- 5. Conditions Precedent** The amendments to the Mortgage Loans are subject to the satisfaction of all conditions set out in this Extension Letter and the additional terms in Schedule "A" and "B" attached hereto (all of which shall be for the sole benefit of the Lender), including, without limitation, completion of the following matters, each to the satisfaction of the Lender in its sole discretion:
- (a) acceptance of this Extension Letter by each Borrower Entity within two (2) business days from the date hereof;
  - (b) providing confirmation that property insurance has been renewed, with an expiry of not earlier than November 1, 2021;
  - (c) the Lender being satisfied, in its sole discretion, with the Borrower's sales and marketing process for the Property, including confirmation that the Borrower is diligently working towards concluding a purchase contract with respect to the storage component (Floors 3, 4 and 5) on terms satisfactory to the Lender, in its sole discretion; and
  - (d) the Servicer obtaining all necessary credit and other internal and external approvals of the terms and conditions set forth in this Extension Letter;
  - (e) no default (other than the Loan Default) has occurred under the Mortgage Loans which are continuing;
  - (f) Servicer to receive evidence satisfactory to it, in its sole discretion, that the construction contract with Prism Construction Ltd. is in good standing and all amounts owing thereunder have been paid in full, subject to applicable statutory holdback requirements (with evidence that such holdback account is in good standing and sufficient);
  - (g) Servicer being satisfied, in its sole discretion, that no creditor of any Borrower Entity has made any claim or commenced any proceedings that would, in the opinion of the Servicer in its sole discretion, adversely affect the Property, the financial condition of any Borrower Entity, the validity, enforceability or priority of the Lender's security, or the construction and marketing of the Property.
- 6. Acknowledgment of Loan Documents** Each Borrower Entity acknowledges and agrees that it is bound by the respective obligations of such party under the Loan Documents to which it is a party. Each Borrower Entity, by executing this extension letter, expressly and unconditionally acknowledges and agrees that, except as expressly provided above, there is no agreement, approval, consent, representation, warranty, covenant, commitment, undertaking, promise or other obligation or liability of any kind, express or implied, written or oral, direct or contingent, made or given at any time by or on behalf of the Lender relating to the Mortgage Loans, the Loan Documents or otherwise giving rise to any present or future claim, defence, right of set-off or any other action or proceeding of any kind by any Borrower Entity in respect of their respective representations, warranties, covenants, obligations and liabilities under the Mortgage Loans and Loan Documents and/or any of the Lender's rights, remedies or security thereunder, including without limitation, any such claim, defence, right of set-off or other action or proceeding based on the existence, granting, availability and/or expectation (reasonable or otherwise) of any existing or future loan extension, modification,



- 5 -

waiver, forbearance, concession and/or any other similar agreement or arrangement. Each signatory on behalf of each Borrower Entity has the authority to bind such Borrower Entity.

**7. Other Covenants**

Each Borrower Entity hereby covenants and agrees as follows:

- (a) to diligently devote all time and resources required to assist with the construction, marketing and sales processes related to the Property;
- (b) to waive all management fees accruing due during the Extension Period;
- (c) to provide copies of all purchase agreements relating to the Property, which shall at all times be subject to prior approval of the Lender and the Lender shall receive copies of all correspondence, reports and updates issued by Cushman Wakefield. The Lender shall be entitled to discuss all sales and marketing matters directly with Cushman Wakefield. No purchase agreement will be amended, modified or terminated without prior approval of the Lender;
- (d) to maintain all insurance required to be maintained by the Borrower under the Loan Documents at all times during the Extension Period; and
- (e) to pay, when due to the applicable governmental authorities or other persons entitled thereto, all realty taxes and utilities relating to the Property.

**8. Inspection/Access Property**

The Borrower Entity hereby authorizes the Lender, MKT Development Group Inc. and its consultants and advisors full access to the Property and all books and records relating thereto at all times and will allow the Lender and MKT Development Group Inc. to monitor the construction, marketing and sales performance of the Property.

**9. Indemnification**

Each Borrower Entity hereby indemnifies the Lender, the Servicer and their respective affiliates, officers, directors, employees, agents and controlling persons, and hold them harmless from and against all costs, expenses (including, without limitation, reasonable fees, disbursements and other charges of counsel on a solicitor and own client basis) and liabilities of any such indemnified person, arising out of or relating to any claim or any litigation or other proceedings (regardless of whether any such indemnified person is a party thereto or whether such claim, litigation, or other proceeding is brought by a third party or by any Borrower Entity or any of their respective affiliates) that relate to the Extension Letter or any documentation entered into in connection therewith.

**10. Governing Law**

Province of British Columbia and laws of Canada applicable therein.

**11. Acceptance**

This Extension Letter shall automatically terminate two (2) business days from the date of issuance of this Extension Letter without acceptance by each Borrower Entity set out below.

**12. Counterparts/  
Facsimile  
Transmission**

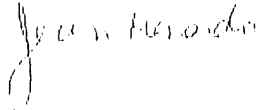
This Extension Letter may be executed in counterparts, and each such counterpart will be deemed to be an original and all of which together constitute one and the same document. Delivery of this Extension Letter by any party may be made by facsimile or other electronic transmission to any other party, or their

respective agents and will be valid and binding as if it is an originally signed document.

If you have any questions regarding the above, please contact the undersigned at your convenience.

Yours very truly,

IMS Limited Partnership, by its General Partner,  
Institutional Mortgage Servicing Canada Inc.




Jean Monardo  
Senior Vice-President


ACKNOWLEDGEMENT

The undersigned hereby acknowledge and agree to the terms and conditions set out herein this 29<sup>th</sup> day of May, 2021.


0876242 B.C. LTD.


Per:   
Name: MACARIO REYES  
Title: DIRECTOR

GATEWAY DEVELOPMENT LIMITED PARTNERSHIP,  
By its General Partner,  
PORT CAPITAL DEVELOPMENT (GATE) INC.

Per:   
Name: MACARIO REYES  
Title: DIRECTOR

PORT CAPITAL DEVELOPMENT INC.

Per:   
Name: MACARIO REYES  
Title: DIRECTOR

  
MACARIO TEODORO (TOBI) REYES

- 7 -

**Schedule A****Releases and Waivers**

Except as otherwise expressly provided herein, the terms of the Commitment Letters, the Mortgages and the Loan Documents shall remain unamended and in full force and affect.

**1. Releases and Waivers**

The Borrower Entity hereby releases and forever discharges the Lender, and its successors and assigns of and from any and all manner of actions, causes of actions, suits, contracts, claims, demands, damages, costs, and expenses of any nature or kind whatsoever, whether known or unknown, suspected or unsuspected, or whether at law or in equity, which the Borrower Entity ever had or now has or which any of their administrators, officers, agents, successors, and assigns hereafter can, shall or may have or by reason of any cause, matter or thing whatsoever existing up to the present time and relating to the Commitment Letters, the Mortgages, the Mortgage Loans, the Mortgage Loan Indebtedness, the Loan Documents, or the Lender's actions, errors or omissions with regard thereto.

The Borrower Entity hereby waives against the Lender, and its successors and assigns, any defense which any of them may have existing up to the present time to any action brought by the Lender to collect the Mortgage Loan Indebtedness or to enforce or realize upon the Mortgages under which said defense arises, including waiving any applicable redemption period in any enforcement proceedings commenced, whether by counterclaim or defense, by reason of any cause, matter, error, omission, neglect, or thing caused or done, whether direct or indirect, by the Lender, its executors, administrators, officers, agents, successors, and assigns existing as at the date of this Extension Letter and relating to or arising from the Commitment Letters, the Mortgages, the Mortgage Loans, the Mortgage Loan Indebtedness, or the Loan Documents or the Lender's actions, errors or omissions with regard thereto.

Notwithstanding the granting of the Extension Period herein, the Lender does not waive any of the aforementioned breaches of the Commitment Letters and the Loan Documents.

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## Schedule B

## Default

Except as otherwise expressly provided herein, the terms of the Commitment Letters, the Mortgages and the Loan Documents shall remain unamended and in full force and affect.

1. Additional Events of Default

It shall be an Event of Default under this Extension Letter if:

- (a) any Borrower Entity fails to duly perform any covenant required of it contained in this Extension Letter, or any subsequent amendment, modification or extension thereto;
- (b) except as expressly provided in this Extension Letter, there is further default under the terms of the Commitment Letters or the Mortgages;
- (c) any encumbrancer or creditor of any Borrower Entity takes possession of, or commences proceedings previously unknown to the Lender or steps to realize upon, any property or asset of the Borrower Entity, including a distress, execution, garnishing order, foreclosure, forfeiture, registration of builders' lien, or other charge, or any similar process levied or enforced there against and any such event is not cured within 5 days of notice thereof having been given by the Lender;
- (d) any corporate Borrower Entity, without the prior written consent of the Lender, passes a resolution or institutes proceedings for its winding-up, restructuring, liquidation, or dissolution or consent to the institution or filing of any petition or proceedings with respect thereto;
- (e) any application is made or proceeding commenced with respect to any corporate Borrower Entity seeking reorganization, readjustment, rearrangement, restructuring, composition or similar relief under any applicable Canadian or other law, or if a step is taken or proceeding is instituted for the winding-up, liquidation, or dissolution of any corporate Borrower Entity or seeking an order adjudging any of them an insolvent or seeking the appointment of a Trustee, Receiver, Receiver/Manager, Liquidator, or similar person over any part of any of the Borrower's property;
- (f) any Borrower Entity becomes bankrupt;
- (g) any Borrower Entity seeks any relief under the *Companies Creditors' Arrangement Act*, *Bankruptcy & Insolvency Act*, the *B.C. Personal Property Security Acts*, the *B.C. Law and Equity Act* or under any statute of similar nature in any other jurisdiction;
- (h) without the prior written consent of the Lender, any corporate Borrower Entity effects or passes a resolution authorizing any consolidation, merger, or amalgamation with any other entity or disposition of all or a substantial portion of its assets;
- (i) the Lender discovers any material fact, which, in the sole and absolute judgment of the Lender, impairs the financial condition of any Borrower Entity, the validity of the Loan Documents, or the value of the undertaking, property, and assets charged by the Loan Documents; and

- 9 -

- (j) there occurs, in the sole and absolute judgment of the Lender, any material adverse change in the financial condition of any Borrower Entity, the validity of the Loan Documents, or the value of the undertaking, property, and assets charged by the Loan Documents.

The Borrower Entity acknowledges and agrees that, upon the happening of an Event of a Default under this Extension Letter or upon expiry of the Extension Period, the Lender shall have the immediate right to terminate the remainder of the Extension Period, if any, and proceed with issuance of formal demand for repayment of the Mortgage Loan Indebtedness followed by enforcement of the Lender's security in the event of non-payment pursuant to such demand.

In the event that the Lender commences proceedings to enforce some or all of the Lender's security, either at the expiry of the Extension Period or after the Extension Period has been terminated at the Lender's election, the Borrower Entity irrevocably consents to the appointment of a Receiver or Receiver/Manager over any or all of the assets and undertakings of the corporate Borrower Entity charged by the Lender's security, with power of sale in favour of such Receiver or Receiver/Manager. The Borrower Entity further acknowledges and agrees that the Lender may rely upon this Extension Letter as evidence of the irrevocable consent in any such court application.

The Lender may, at its option and in its sole discretion, waive any Event of Default but such waiver shall not constitute a waiver of any subsequent event which would constitute an Event of Default herein.

This is **Exhibit "D"** referred to in the  
affidavit of Trevor Herr

sworn this <sup>8<sup>th</sup></sup>..... day of June 2022.



.....  
A Commissioner for taking Affidavits  
within Ontario

# IMS INSTITUTIONAL MORTGAGE SERVICING

TD Centre, TD North Tower, 77 King Street West  
Suite 4120, P.O. Box 117, Toronto, ON M5K 1G8

September 1, 2021

0876242 B.C. Ltd.  
Gateway Development Limited Partnership  
328 West 2nd Avenue  
Vancouver, BC  
V5Y 1C8

RE:    IMS Loan Nos.:               300-0063 and 300-0147  
      Borrower:                    0876242 B.C. Ltd.  
      Beneficial Owner:           Gateway Development Limited Partnership  
      Property:                    Construction Project (the "Project") at 3333 Bridgeway Street,  
  Vancouver, BC  
      Subject:                      Extension Letter

Dear Sirs:

0876242 B.C. Ltd. (the "Borrower") is indebted to Institutional Mortgage Capital Canada Inc. as a general partner of IMC Limited Partnership (the "Lender") pursuant to the following:

1. a first mortgage construction loan (the "Construction Loan"), made pursuant to a commitment letter dated February 28, 2018, as amended March 12, 2018, January 31, 2020, September 3, 2020 and May 28, 2021 (collectively, the "Construction Loan Commitment Letter"), with an outstanding principal balance owing to the Lender of \$28,269,528.45 as at September 1, 2021, with interest currently at 6.50% per annum.
2. a cost overrun facility (the "Cost Overrun Facility", and together with the Construction Loan, the "Mortgage Loans") made pursuant to a commitment letter dated September 3, 2020, as amended May 28, 2021 (the "Cost Overrun Commitment Letter", and together with the Construction Loan Commitment Letter, the "Commitment Letters"), with an outstanding principal balance owing to the Lender of \$3,102,542.06 as at September 1, 2021, with interest at 15% per annum.

The collective balances owing to the Lender by the Borrower, pursuant to the Mortgage Loans are hereinafter referred to as the "Mortgage Loan Indebtedness".

The Mortgage Loans are secured by, *inter alia*:

- (i) a Mortgage and Assignment of Rents registered in the Vancouver Land Title Office under registration numbers CA6681010 and CA681011 with expressed mortgage terms attached thereto; and
  - (ii) a Mortgage registered in the Vancouver Land Title Office under registration number 8430043 with express mortgage terms attached thereto;
- (the "Mortgages")

over the property civically and legally described as:

3333 Bridgeway Street, Vancouver, British Columbia

- 2 -

PID: 011-154-551  
 Block K, Except Part on Reference Plan 8675, Now Lane Town of Hastings Plan 5461  
 (the "Property").

The Borrower failed to repay the Mortgage Loans on their maturity date, being September 1, 2021 (the "Loan Default"), which for greater certainty, does not include any other default by the Borrower or any other Borrower Entity (as defined below) under the Mortgage Loans or any Loan Documents (as defined in the Commitment Letters).

At the Borrower's request, the Lender previously granted an extension to the Construction Loan, and in addition, granted the Cost Overrun Facility. The Borrower hereby acknowledges the Mortgage Loan Indebtedness is owing to the Lender and confirms the validity and enforceability of the Loan Documents and the Lender's security.

The Borrower has been unable to complete construction of the Project and repay the Mortgage Loan Indebtedness in full by the extended Maturity Date of September 1, 2021, and has requested a further extension of the Maturity Date to November 1, 2021.

The Lender hereby offers to extend the Mortgage Loans upon and subject to the terms and conditions set out in this Extension Letter, including the further terms and conditions set out in Schedule "A" and Schedule "B" attached hereto.

**1. General**

Terms not specifically defined herein shall have the same meanings as set forth in the Commitment Letters, the Mortgages or the Loan Documents. Except as otherwise expressly provided herein, the terms of the Commitment Letters, the Mortgages and the Loan Documents shall remain unamended and in full force and affect.

**2. Parties**

The Borrower, Gateway Development Limited Partnership, Port Capital Development Inc. and Macario Teodoro (Tobi) Reyes (individually and collectively, a "Borrower Entity") and the Lender, "Servicer" means Institutional Mortgage Servicing Canada Inc., as general partner of IMS Limited Partnership.

**3. Loan Amendments**

The amendments to the Mortgage Loans are summarized below and are subject to the satisfaction of all conditions set out in this Extension Letter, including the additional terms set out in Schedule "A" and Schedule "B" attached hereto:

**Maturity Date:** The maturity date of the Mortgage Loans shall be extended from September 1, 2021 to November 1, 2021 (the "Extension Period").

**Cost Overruns:** The Lender agrees to forward the \$190,000 payment for cost overruns that the Borrower is required to remit under Concost Consultants Inc. progress draw #30 report dated August 27, 2021 on the condition that the Borrower repays the Lender the full \$190,000 within 45 days of the date hereof. Failure to make such payment to the Lender shall be an Event of Default under the Mortgage Loans at the Lender's sole and absolute discretion.

**4. Extension Fees, Costs and Expenses**

The following amounts shall be paid to the Lender in consideration for the Lender entering into this Extension Letter. All such fees will be earned by the Lender upon execution and delivery of this Extension Letter and, until paid to the Lender, will be added to the Mortgage Loan Indebtedness and secured by the Lender's security.



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- (a) Extension Fee 0.25% of the Mortgage Loan Indebtedness as of September 1, 2021 (the "Extension Fee"), which fee will be capitalized by the Lender under each of the Mortgage Loans and added to the Mortgage Loan Indebtedness owing under each, respectively, and secured by the Lender's security.
- (b) Lender's Legal Fees The legal fees and disbursements incurred by the Lender, on a solicitor and own client basis, plus applicable taxes, in connection with the Mortgage Loan Indebtedness, the Loan Default and the negotiation and settlement of this Extension Letter, which amount shall be payable by the Borrower on the date of execution of this Extension Letter.
- (c) MKT Development Group Inc. Fees MKT Development Group Inc.'s monthly fees up to a maximum of \$9,750.00 plus applicable taxes shall be continued to be paid from the existing project monitor cost reserve for the duration of the Extension Period.

The Borrower irrevocably acknowledges and agrees with the Lender that all such amounts in clauses (a) and (b) above are due and owing by the Borrower to the Lender and form part of the Mortgage Loan Indebtedness. Said amounts shall be non-refundable and deemed to be fully earned on the execution of the Extension Letter. The Borrower also hereby undertakes to pay all future professional and legal fees and disbursements incurred by the Lender, on a solicitor and own client basis, in connection with the Loan Default, this Extension Letter and all matters relating thereto from time to time, which amounts shall be payable by the Borrower on a monthly basis. In the event that such fees are not paid when due, then the Lender may add same to the Mortgage Loan Indebtedness at which time such fees shall be secured by the Lender's security.

5. Conditions Precedent The amendments to the Mortgage Loans are subject to the satisfaction of all conditions set out in this Extension Letter and the additional terms in Schedule "A" and "B" attached hereto (all of which shall be for the sole benefit of the Lender), including, without limitation, completion of the following matters, each to the satisfaction of the Lender in its sole discretion:
- (a) acceptance of this Extension Letter by each Borrower Entity within two (2) business days from the date hereof;
  - (b) providing confirmation that property insurance has been renewed, with an expiry of not earlier than December 1, 2021;
  - (c) the Lender being satisfied, in its sole discretion, with the Borrower's sales and marketing process for the Property;
  - (d) the Servicer obtaining all necessary credit and other internal and external approvals of the terms and conditions set forth in this Extension Letter;
  - (e) no default (other than the Loan Default) has occurred under the Mortgage Loans which are continuing;
  - (f) Servicer to receive evidence satisfactory to it, in its sole discretion, that the construction contract with Prism Construction Ltd. is in good standing and all amounts owing thereunder have been paid in full, subject to applicable statutory holdback requirements (with evidence that such holdback account is in good standing and sufficient);

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- (g) Servicer being satisfied, in its sole discretion, that no creditor of any Borrower Entity has made any claim or commenced any proceedings that would, in the opinion of the Servicer in its sole discretion, adversely affect the Property, the financial condition of any Borrower Entity, the validity, enforceability or priority of the Lender's security, or the construction and marketing of the Property.

**6. Acknowledgment of Loan Documents**

Each Borrower Entity acknowledges and agrees that it is bound by the respective obligations of such party under the Loan Documents to which it is a party. Each Borrower Entity, by executing this extension letter, expressly and unconditionally acknowledges and agrees that, except as expressly provided above, there is no agreement, approval, consent, representation, warranty, covenant, commitment, undertaking, promise or other obligation or liability of any kind, express or implied, written or oral, direct or contingent, made or given at any time by or on behalf of the Lender relating to the Mortgage Loans, the Loan Documents or otherwise giving rise to any present or future claim, defence, right of set-off or any other action or proceeding of any kind by any Borrower Entity in respect of their respective representations, warranties, covenants, obligations and liabilities under the Mortgage Loans and Loan Documents and/or any of the Lender's rights, remedies or security thereunder, including without limitation, any such claim, defence, right of set-off or other action or proceeding based on the existence, granting, availability and/or expectation (reasonable or otherwise) of any existing or future loan extension, modification, waiver, forbearance, concession and/or any other similar agreement or arrangement. Each signatory on behalf of each Borrower Entity has the authority to bind such Borrower Entity.

**7. Other Covenants**

Each Borrower Entity hereby covenants and agrees as follows:

- (a) to diligently devote all time and resources required to assist with the construction, marketing and sales processes related to the Property;
- (b) to waive all management fees accruing due during the Extension Period;
- (c) to provide copies of all purchase agreements relating to the Property, which shall at all times be subject to prior approval of the Lender and the Lender shall receive copies of all correspondence, reports and updates issued by Cushman Wakefield. The Lender shall be entitled to discuss all sales and marketing matters directly with Cushman Wakefield. No purchase agreement will be amended, modified or terminated without prior approval of the Lender;
- (d) to maintain all insurance required to be maintained by the Borrower under the Loan Documents at all times during the Extension Period; and
- (e) to pay, when due to the applicable governmental authorities or other persons entitled thereto, all realty taxes and utilities relating to the Property.

**8. Inspection/Access Property**

The Borrower Entity hereby authorizes the Lender, MKT Development Group Inc. and its consultants and advisors full access to the Property and all books and records relating thereto at all times and will allow the Lender and MKT

Development Group Inc. to monitor the construction, marketing and sales performance of the Property.

**9. Indemnification**

Each Borrower Entity hereby indemnifies the Lender, the Servicer and their respective affiliates, officers, directors, employees, agents and controlling persons, and hold them harmless from and against all costs, expenses (including, without limitation, reasonable fees, disbursements and other charges of counsel on a solicitor and own client basis) and liabilities of any such indemnified person, arising out of or relating to any claim or any litigation or other proceedings (regardless of whether any such indemnified person is a party thereto or whether such claim, litigation, or other proceeding is brought by a third party or by any Borrower Entity or any of their respective affiliates) that relate to the Extension Letter or any documentation entered into in connection therewith.

**10. Governing Law**

Province of British Columbia and laws of Canada applicable therein.

**11. Acceptance**

This Extension Letter shall automatically terminate two (2) business days from the date of issuance of this Extension Letter without acceptance by each Borrower Entity set out below.

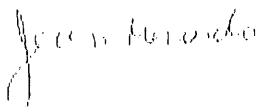
**12. Counterparts/  
Facsimile  
Transmission**

This Extension Letter may be executed in counterparts, and each such counterpart will be deemed to be an original and all of which together constitute one and the same document. Delivery of this Extension Letter by any party may be made by facsimile or other electronic transmission to any other party, or their respective agents and will be valid and binding as if it is an originally signed document.

If you have any questions regarding the above, please contact the undersigned at your convenience.

Yours very truly,

IMS Limited Partnership, by its General Partner,  
Institutional Mortgage Servicing Canada Inc.



Jean Monardo  
Senior Vice-President

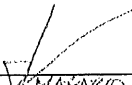
**ACKNOWLEDGEMENT**

The undersigned hereby acknowledge and agree to the terms and conditions set out herein this 15<sup>th</sup> day of September, 2021.

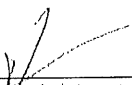
0876242 B.C. LTD.


Per: \_\_\_\_\_  
Name: MACARIO ROSTER  
Title: DIRECTOR

GATEWAY DEVELOPMENT LIMITED PARTNERSHIP,  
By its General Partner,  
PORT CAPITAL DEVELOPMENT (GATE) INC.

Per:   
Name: MACARIO REYES  
Title: PRECOR

PORT CAPITAL DEVELOPMENT INC.

Per:   
Name: MACARIO REYES  
Title: DIRECTOR

  
MACARIO TEODORO (TOBI) REYES

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## Schedule A

## Releases and Waivers

Except as otherwise expressly provided herein, the terms of the Commitment Letters, the Mortgages and the Loan Documents shall remain unamended and in full force and affect.

1. Releases and Waivers

The Borrower Entity hereby releases and forever discharges the Lender, and its successors and assigns of and from any and all manner of actions, causes of actions, suits, contracts, claims, demands, damages, costs, and expenses of any nature or kind whatsoever, whether known or unknown, suspected or unsuspected, or whether at law or in equity, which the Borrower Entity ever had or now has or which any of their administrators, officers, agents, successors, and assigns hereafter can, shall or may have or by reason of any cause, matter or thing whatsoever existing up to the present time and relating to the Commitment Letters, the Mortgages, the Mortgage Loans, the Mortgage Loan Indebtedness, the Loan Documents, or the Lender's actions, errors or omissions with regard thereto.

The Borrower Entity hereby waives against the Lender, and its successors and assigns, any defense which any of them may have existing up to the present time to any action brought by the Lender to collect the Mortgage Loan Indebtedness or to enforce or realize upon the Mortgages under which said defense arises, including waiving any applicable redemption period in any enforcement proceedings commenced, whether by counterclaim or defense, by reason of any cause, matter, error, omission, neglect, or thing caused or done, whether direct or indirect, by the Lender, its executors, administrators, officers, agents, successors, and assigns existing as at the date of this Extension Letter and relating to or arising from the Commitment Letters, the Mortgages, the Mortgage Loans, the Mortgage Loan Indebtedness, or the Loan Documents or the Lender's actions, errors or omissions with regard thereto.

Notwithstanding the granting of the Extension Period herein, the Lender does not waive any of the aforementioned breaches of the Commitment Letters and the Loan Documents.

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## Schedule B

## Default

Except as otherwise expressly provided herein, the terms of the Commitment Letters, the Mortgages and the Loan Documents shall remain unamended and in full force and affect.

1. Additional Events of Default

It shall be an Event of Default under this Extension Letter if:

- (a) any Borrower Entity fails to duly perform any covenant required of it contained in this Extension Letter, or any subsequent amendment, modification or extension thereto;
- (b) except as expressly provided in this Extension Letter, there is further default under the terms of the Commitment Letters or the Mortgages;
- (c) any encumbrancer or creditor of any Borrower Entity takes possession of, or commences proceedings previously unknown to the Lender or steps to realize upon, any property or asset of the Borrower Entity, including a distress, execution, garnishing order, foreclosure, forfeiture, registration of builders' lien, or other charge, or any similar process levied or enforced there against and any such event is not cured within 5 days of notice thereof having been given by the Lender;
- (d) any corporate Borrower Entity, without the prior written consent of the Lender, passes a resolution or institutes proceedings for its winding-up, restructuring, liquidation, or dissolution or consent to the institution or filing of any petition or proceedings with respect thereto;
- (e) any application is made or proceeding commenced with respect to any corporate Borrower Entity seeking reorganization, readjustment, rearrangement, restructuring, composition or similar relief under any applicable Canadian or other law, or if a step is taken or proceeding is instituted for the winding-up, liquidation, or dissolution of any corporate Borrower Entity or seeking an order adjudging any of them an insolvent or seeking the appointment of a Trustee, Receiver, Receiver/Manager, Liquidator, or similar person over any part of any of the Borrower's property;
- (f) any Borrower Entity becomes bankrupt;
- (g) any Borrower Entity seeks any relief under the *Companies Creditors' Arrangement Act*, *Bankruptcy & Insolvency Act*, the B.C. *Personal Property Security Acts*, the B.C. *Law and Equity Act* or under any statute of similar nature in any other jurisdiction;
- (h) without the prior written consent of the Lender, any corporate Borrower Entity effects or passes a resolution authorizing any consolidation, merger, or amalgamation with any other entity or disposition of all or a substantial portion of its assets;
- (i) the Lender discovers any material fact, which, in the sole and absolute judgment of the Lender, impairs the financial condition of any Borrower Entity, the validity of the Loan Documents, or the value of the undertaking, property, and assets charged by the Loan Documents; and

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- (j) there occurs, in the sole and absolute judgment of the Lender, any material adverse change in the financial condition of any Borrower Entity, the validity of the Loan Documents, or the value of the undertaking, property, and assets charged by the Loan Documents.

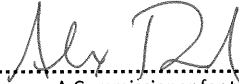
The Borrower Entity acknowledges and agrees that, upon the happening of an Event of a Default under this Extension Letter or upon expiry of the Extension Period, the Lender shall have the immediate right to terminate the remainder of the Extension Period, if any, and proceed with issuance of formal demand for repayment of the Mortgage Loan Indebtedness followed by enforcement of the Lender's security in the event of non-payment pursuant to such demand.

In the event that the Lender commences proceedings to enforce some or all of the Lender's security, either at the expiry of the Extension Period or after the Extension Period has been terminated at the Lender's election, the Borrower Entity irrevocably consents to the appointment of a Receiver or Receiver/Manager over any or all of the assets and undertakings of the corporate Borrower Entity charged by the Lender's security, with power of sale in favour of such Receiver or Receiver/Manager. The Borrower Entity further acknowledges and agrees that the Lender may rely upon this Extension Letter as evidence of the irrevocable consent in any such court application.

The Lender may, at its option and in its sole discretion, waive any Event of Default but such waiver shall not constitute a waiver of any subsequent event which would constitute an Event of Default herein.

This is **Exhibit "E"** referred to in the  
affidavit of Trevor Herr

sworn this <sup>8<sup>th</sup></sup>..... day of June 2022.

A handwritten signature in black ink, appearing to read 'Mr. [unclear]', written over a horizontal dotted line.

.....  
A Commissioner for taking Affidavits  
within Ontario



## FORBEARANCE AGREEMENT

This Agreement is dated for reference November 8, 2021

<p>BETWEEN:</p> <p><b><u>INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.</u></b>, as General Partner of <b><u>IMC LIMITED PARTNERSHIP</u></b>, 199 Bay Street, Suite 1900, Commerce Court, Box 271, Toronto, Ontario M5L 1E9</p> <p>(the “Lender”)</p>	
<p>AND:</p> <p><b><u>0876242 B.C. LTD.</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>(the “Borrower”)</p>	<p>AND:</p> <p><b><u>GATEWAY DEVELOPMENT LIMITED PARTNERSHIP</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>(the “LP”)</p>
<p>AND:</p> <p><b><u>PORT CAPITAL DEVELOPMENT INC.</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>(“Port Capital Development”)</p>	<p>AND:</p> <p><b><u>MACARIO TEODORO REYES</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>(“Macario” and together with Port Capital Development, the LP and the Borrower, the “Credit Parties”)</p>

### WHEREAS:

- A. The Borrower is the registered owner of the industrial property located at 3333 Bridgeway Street, Vancouver, B.C. V5K 1H9, and legally described as:
- PID: 011-154-551  
Block K, Except Part on Reference Plan 8675, Now Lane Town of Hastings Plan 5461
- (the “Property”).
- B. The LP is the beneficial owner of the Property.
- C. The Lender has established and authorized certain credit facilities (the “Credit Facilities”), in favour of the Borrower with respect to the construction and development of the Property (the “Project”), pursuant to:
- (a) Construction Financing Letter dated February 28, 2018;

- (b) Construction Financing Amendment Letter dated March 12, 2018;
  - (c) Construction Financing Amendment Letter dated January 31, 2020;
  - (d) Construction Financing Amendment Letter dated September 3, 2020;
  - (e) Cost Overrun Facility Letter dated September 3, 2020;
  - (f) Extension Letter dated May 28, 2021; and
  - (g) Extension Letter dated September 1, 2021;
- (collectively, the “**Credit Agreements**”).

D. The Credit Facilities provided to the Borrower pursuant to the Credit Agreements include:

**Construction Financing Facility**

- (a) Construction financing loan (the “**Construction Loan**”) with an outstanding principal balance owing to the Lender of \$29,006,052.82 as at November 2, 2021, with interest currently at 6.50% per annum, which loan matured on November 1, 2021 and is currently due and payable in full.

**Cost Overrun Facility**

- (b) Cost overrun facility (the “**Cost Overrun Facility**”) with an outstanding principal balance owing to the Lender of \$3,268,987.04 as at November 2, 2021, with interest at 15% per annum, which loan matured on November 1, 2021 and is currently due and payable in full.

The loans and collective balances owing to the Lender by the Borrower pursuant to the Credit Facilities, as set out above, are hereinafter referred to as the “**Indebtedness**”, which includes, without limitation, all accrued and unpaid interest, extension or other fees and costs due and payable under the Credit Agreements and the Security Documents as of November 2, 2021.

E. The Credit Facilities are secured by, *inter alia*, the following charges on the Property:

- (a) first ranking Mortgage and Assignment or Rents (the “**First Mortgage**”) in the principal amount of \$29.8 million registered in the Vancouver Land Title Office on March 15, 2018, under registration numbers CA6681010 and CA6681011, with express mortgage terms attached thereto, as modified by Modification of Mortgage registered on September 15, 2020, registered under registration number CA8430029; and
- (b) second ranking Mortgage in the principal amount of \$4 million (the “**Second Mortgage**”) and together with the First Mortgage, the “**Mortgages**”) registered in the Vancouver Land Title Office on September 15, 2020 under registration number 8430043, with express mortgage terms attached thereto;

- F. All security, including the Mortgages (collectively and individually, the “**Security**”), now or hereafter held by the Lender in respect of the Credit Agreements, the Credit Facilities and the Indebtedness is collectively referred to as the “**Security Documents**” which include, without limitation, the security documents and guarantees listed in **Schedule “A”** attached hereto.
- G. The Lender has several concerns regarding the Credit Parties including default under the Credit Agreements due to, other things, construction delays and cost overruns with respect to the Project, along with payment arrears and the failure to repay the Indebtedness in full upon maturity (November 1, 2021) and claims registered on title of the Property.
- H. The Credit Parties and Prism Construction Ltd. (“**Prism**”), the general contractor for the Project, have negotiated the terms of a third amendment to the general contract the (“**Prism Third Amendment**”) with respect to, among other things, change orders, cost overruns and revised timelines to achieve substantial completion.
- I. Notwithstanding the foregoing, the Credit Parties have requested that the Lender forbear from taking steps to enforce the Security and to recover the Indebtedness, all on the terms and conditions set out herein, in order to provide the Credit Parties with a further reasonable period of time to address their financial difficulties and complete the Project.

**WITNESSES THAT** in consideration of the promises and covenants hereinafter set forth, the Credit Parties hereto covenant and agree as follows:

**Forbearance**

1. Subject to the execution and delivery to the Lender of this Agreement by each of the Credit Parties together with:
  - (a) a duly executed copy of the Prism Third Amendment; and
  - (b) the supplemental loan documentation referenced in Section 19 herein;

the Lender agrees it will not take steps to enforce the Security to recover the Indebtedness until after **January 1, 2022** (the “**Forbearance Period**”), or such later date as may be agreed to by the Lender in writing and in its sole discretion.
2. Notwithstanding the Credit Parties’ obligations set out in this Agreement may contemplate financial and other obligations beyond the Forbearance Period, nothing in this Agreement shall be deemed to extend the Forbearance Period beyond January 1, 2022 or such later date that the Lender may agree to in writing.

**Confirmation of Credit Agreements, Indebtedness, and Security**

3. Each of the Credit Parties acknowledge and agree that the recitals to this Agreement are incorporated into and form an integral part of this Agreement and are true and accurate in every respect.

4. Each of the Credit Parties acknowledge and agree that the Lender is not under any obligation whatsoever to provide further loans, overdraft facilities, or other credit facilities to the Borrower or the LP.
5. Each of the Credit Parties acknowledge and agree that the Indebtedness is due and owing to the Lender, and hereby waive any rights which they may have as at the date of this Agreement to claim any abatement or offset of the amounts, whether arising by way of defence or counterclaim.
6. Each of the Credit Parties acknowledge having reviewed and being familiar with the Security Documents, that all of the Security Documents are in full force and effect, and are valid and enforceable in accordance with their terms.
7. Each of the Credit Parties acknowledge and agree that whatever interest, claim, or right that any of them may have in and to any of the undertakings, properties, and assets of the Borrower shall be postponed, subordinated, and subject to the rights of the Lender under the Security Documents.
8. Each of the corporate Credit Parties acknowledge that they are duly authorized to enter into and be bound by the terms of the Credit Agreements, the Security Documents and this Agreement and to carry out the terms of each such agreement.
9. Each of the Credit Parties acknowledge and agree that the Construction Loan and Cost Overrun Facility matured November 1, 2021 and are currently due and payable in full.
10. Each of the Credit Parties acknowledge and agree that nothing in this Agreement, including the granting of forbearance, shall be deemed to constitute a waiver of any default pursuant to the Credit Agreements and the Security Documents, whether known or unknown by the Lender.
11. The confirmations and acknowledgements herein by each of the Credit Parties in relation to the Indebtedness and Security constitute acknowledgement of their respective liability for the Indebtedness and pursuant to the Security Documents as contemplated by the British Columbia *Limitation Act*.

### **The Credit Parties' Financial and Non-Financial Obligations**

#### **Prism Amendment**

12. The Credit Parties shall forthwith provide a duly executed copy of the Prism Third Amendment, which amendment shall contain terms and conditions satisfactory to the Lender in its sole and absolute discretion.

#### **Weekly Reporting**

13. Beginning **November 15, 2021**, the Borrower shall provide weekly reporting to the Lender and its project consultant, MKT Developments Group Inc. ("**MKT**") respecting the progress towards completion of the Project, including, among other things, stratification of the Property.

**Title to the Property**

14. On or before December 15, 2020, the Credit Parties shall attend to the discharge of all charges and notations registered on title of the Property after September 15, 2020, including, without limitation, the following:
  - (a) Certificate of Pending Litigation registered under registration number CA8961936 on April 29, 2021, in favour of Seeb Capital Ltd.; and
  - (b) Certificate of Pending Litigation registered under registration number CA9145196 on June 29, 2021 in favour of Mark Vanry;
15. Each of the Credit Parties covenant and agree not to further encumber the Property without the Lender's prior written consent.

**Further Advances**

16. The Credit Parties acknowledge that the Lender is prepared, in its sole and absolute discretion, to make further advances (the "**Further Advances**") to the Borrower with respect to the Project and the cost overruns contemplated in the Prism Third Amendment by way of:
  - (a) further draws under the Construction Loan secured by, *inter alia*, the First Mortgage;
  - (b) further advances pursuant to an amendment to the Cost Overrun Facility, or otherwise, and secured by the Second Mortgage.
17. The Credit Parties further acknowledge and agree that all Further Advances shall be due and payable upon demand in accordance with the terms of this Agreement.
18. The Credit Parties acknowledge and agree that all Further Advances shall be made in the Lender's sole discretion and subject to the Lender's prior written approval in addition to any advance conditions set out in the Credit Agreements, the Security Documents and any supplemental loan documents contemplated in Section 19.
19. The Credit Parties shall execute and deliver to the Lender all supplementary loan and/or security documents that the Lender, in its sole and absolute discretion, may deem necessary with respect to the Further Advances.

**Funding Shortfall**

20. On or before December 1, 2021, the Credit Parties shall make arrangements, satisfactory to the Lender in its sole and absolute discretion, for the cash injection into the Project on account of the anticipated shortfall required to achieve substantial completion, less any

Further Advances that may be made pursuant to this Agreement, which shortfall is currently estimated at \$700,000 (the "**Funding Shortfall**").

#### **Legal Costs**

21. Each of the Credit Parties acknowledge and agree that the legal fees and disbursements incurred by the Lender, on a solicitor and own client basis, plus applicable taxes, in connection with the Lender's solicitors advising the Lender in relation to the affairs of the Borrower and in relation to the Credit Agreements, the Credit Facilities, the Indebtedness, the Security Documents, and this Agreement, and all matters incidental or relating thereto, including enforcement and realization, and whether past, present, or future, shall be payable by Borrower and shall be included and form part of the Indebtedness as the Lender, in its sole and absolute discretion sees fit, and shall be secured by the Security.

#### **Other Third Party Costs**

22. Each of the Credit Parties acknowledge and agree that all costs incurred by the Lender with respect to the Project including, without limitation, project monitoring, engineering, architectural, appraisal, site representation including the fees and expenses of MKT shall be included and form part of the Indebtedness as the Lender, in its sole and absolute discretion sees fit, and shall be secured by the Security.
23. The Credit Parties agree that the costs set out in sections 21 and 22 herein shall be paid by the Borrower on a monthly basis with liberty to the Lender to pay same from the Further Advances contemplated in this Agreement.

#### **Forbearance Fee**

24. The Borrower shall pay to the Lender a forbearance fee in the amount of \$25,000, which fee shall be included and form part of the Indebtedness as the Lender, in its sole and absolute discretion sees fit, and shall be secured by the Security.

#### **Additional Obligations**

25. Each of the Credit Parties (to the extent the following statutes may apply), covenant and agree that they will not seek any relief under the *Companies Creditors' Arrangement Act*, *Bankruptcy & Insolvency Act*, the *B.C. Personal Property Security Act*, the *B.C. Law and Equity Act*, or under any statute of similar nature in any other jurisdiction.

#### **Releases and Waivers**

26. Each of the Credit Parties hereby release and forever discharge the Lender, and its successors and assigns of and from any and all manner of actions, causes of actions, suits, contracts, claims, demands, damages, costs, and expenses of any nature or kind whatsoever, whether known or unknown, suspected or unsuspected, or whether at law or in equity, which the Credit Parties, or any of them, ever had or now have or which they or their administrators, officers, agents, successors, and assigns hereafter can, shall or may have or by reason of any cause, matter or thing whatsoever existing up to the present time

and relating to the Credit Agreements, Credit Facilities, the Indebtedness, the Security Documents, the Project or the Lender's actions, errors or omissions with regard thereto.

27. Each of the Credit Parties hereby waive against the Lender, and its successors and assigns any defense which they, or any of them, may have existing up to the present time to any action brought by the Lender to collect the Indebtedness or to enforce or realize upon the Security under which said defense arises, whether by counterclaim or defense, by reason of any cause, matter, error, omission, neglect, or thing caused or done, whether direct or indirect, by the Lender, its executors, administrators, officers, agents, successors, and assigns existing as at the date of this Agreement and relating to or arising from the Credit Agreements, the Credit Facilities, the Indebtedness, or the Security Documents, the Project or the Lender's actions, errors or omissions with regard thereto.

### **Default**

28. It shall be an Event of Default under this Agreement if:
- (a) the Lender receives any notice, in writing or otherwise, respecting any default under the construction contract with Prism, including the Prism Third Amendment by any party thereto;
  - (b) an event of default occurs under any other material contract, as determined by the Lender in its sole and absolute discretion, with respect to the Project;
  - (c) Prism or any sub-trade contractor ceases work on the Project prior to substantial completion;
  - (d) MKT determines there are material delays and/or material adverse changes with respect to the completion of the Project;
  - (e) the Funding Shortfall is not injected into the Project by December 1, 2021;
  - (f) the Credit Parties fail to achieve substantial completion of the Project to the extent required by the Lender, in its sole and absolute discretion, on or before December 31, 2021; and
  - (g) any further registration is filed on title to the Property without the written consent of the Lender, including, without limitation, any legal notation, charge, covenant, mortgage, builders lien, certificate of pending litigation or any other encumbrance whatsoever.
29. In addition to the foregoing, it shall be an Event of Default under this Agreement if:
- (a) any of the Credit Parties fail to duly perform any covenant required of them contained in this Agreement, or any subsequent amendment, modification or extension thereto;
  - (b) except as expressly provided in this Agreement, there is further default under the terms of the Credit Agreements or the Security Documents;

- (c) any encumbrancer or creditor of any of the Borrower or LP takes possession of, or commences proceedings previously unknown to the Lender or steps to realize upon, any property or asset of the Borrower or LP including a distress, execution, garnishing order, forfeiture, or other charge, or any similar process levied or enforced there against;
  - (d) any of the corporate Credit Parties, without the prior written consent of the Lender, pass a resolution or institute proceedings for their winding-up, restructuring, liquidation, or dissolution or consent to the institution or filing of any petition or proceedings with respect thereto;
  - (e) any application is made or proceeding commenced with respect to any of the corporate Credit Parties seeking reorganization, readjustment, rearrangement, restructuring, composition or similar relief under any applicable Canadian or other law, or if a step is taken or proceeding is instituted for the winding-up, liquidation, or dissolution of any of the corporate Credit Parties or seeking an order adjudging any of them an insolvent or seeking the appointment of a Trustee, Receiver, Receiver/Manager, Liquidator, or similar person over any part of any of the Borrower's property;
  - (f) any of the Credit Parties become bankrupt;
  - (g) without the prior written consent of the Lender, any of the corporate Credit Parties effect or pass a resolution authorizing any consolidation, merger, or amalgamation with any other entity or disposition of all or a substantial portion of their assets;
  - (h) during the Forbearance Period, the Lender discovers any material fact, which, in the sole and absolute judgment of the Lender, impairs the financial condition of any of the Credit Parties, the validity of the Security Documents, or the value of the undertaking, property, and assets charged by the Security Documents; and
  - (i) during the Forbearance Period, there occurs, in the sole and absolute judgment of the Lender, any material adverse change in the financial condition of any of the Credit Parties, the validity of the Security Documents, or the value of the undertaking, property, and assets charged by the Security Documents.
30. Each of the Credit Parties acknowledge and agree that, upon the happening of an Event of a Default under this Agreement or upon expiry of the Forbearance Period, or any extension thereof agreed to by the Lender in writing, the Lender shall have the immediate right to terminate the remainder of the Forbearance Period (or any extension thereof in writing), if any, and proceed with issuance of formal demand for repayment of the Indebtedness followed by enforcement of the Security in the event of non-payment pursuant to such demand.
31. In the event that the Lender commences proceedings to enforce some or all of the Security, either at the expiry of the Forbearance Period or after the Forbearance Period has been terminated at the Lender's election, the Credit Parties irrevocably consent to the appointment of a Receiver or Receiver/Manager over any or all of the corporate Credit Parties' assets and undertakings charged by the Security, with power of sale in favour of



such Receiver or Receiver/Manager. The Credit Parties further acknowledge and agree that the Lender may rely upon this Agreement as evidence of the irrevocable consent in any such court application.

32. the Lender may, at its option and in its sole discretion, waive any Event of Default but such waiver shall not constitute a waiver of any subsequent event which would constitute an Event of Default herein.

### General

33. Except as set out herein, all other terms of the Credit Agreements and Security Documents will remain in full force and effect.
34. Any notice to be given to any party hereunder may be given by delivery to the respective party at the address hereinafter set forth:

If to the Lender:

Institutional Mortgage Capital Canada  
199 Bay Street,  
Suite 1900, Commerce Court, Box 271,  
Toronto, ON M5L 1E9

Attention: Jean Monardo

Email: jean.monardo@imcapital.com

With a copy to their Solicitors :

Lawson Lundell LLP  
1600 – 925 West Georgia Street,  
Vancouver, BC V6C 3L2

Attention: Bryan C. Gibbons

Email: bgibbons@lawsonlundell.com

If to any of the Credit Parties:

328 West 2<sup>nd</sup> Avenue,  
Vancouver, BC V5Y 1C8  
Attention: Macario Teodoro Reyes  
Email: tobi@portliving.com

With a copy to their Solicitors :

Fasken Martineau DuMoulin LLP  
2900 – 550 Burrard Street,  
Vancouver, BC V6C 0A3

Attention: Sergio C. Custodio

Email: scustodio@fasken.com

35. This Agreement shall be governed by the laws of British Columbia and the Courts of British Columbia shall have exclusive jurisdiction with respect to any disputes arising hereunder or pursuant hereto.
36. The Credit Parties, and each of them, acknowledge and agree that this Agreement shall in all respects be binding upon it, and its respective administrators, successors, and assigns.
37. If there is any inconsistency between this Agreement and any other agreement with the Lender concerning the Indebtedness, the provisions of this Agreement shall prevail.
38. This Agreement may be executed in two or more counterparts and all such executed counterparts shall constitute one in the same document. All such counterparts may be delivered by fax or any electronic form.
39. The Credit Parties, and each of them, acknowledge and agree that they have had the opportunity to seek independent legal advice prior to execution of this Agreement.

*[Signature page to follow]*

IN WITNESS WHEREOF the Credit Parties have caused these presents to be executed as of the reference date set out on page one.

<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>INSTITUTIONAL MORTGAGE CAPITAL CANADA INC., as General Partner of IMC LIMITED PARTNERSHIP</b></p> <p><i>Jean Monardo</i></p> <p>Per: _____ Authorized Signatory</p>	
<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>0876242 B.C. LTD.</b></p> <p><i>[Signature]</i></p> <p>Per: _____ Authorized Signatory</p>	<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>GATEWAY DEVELOPMENT LIMITED PARTNERSHIP, by its General Partner, PORT CAPITAL DEVELOPMENT (GATE) INC.</b></p> <p><i>[Signature]</i></p> <p>Per: _____ Authorized Signatory</p>
<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>PORT CAPITAL DEVELOPMENT INC.</b></p> <p><i>[Signature]</i></p> <p>Per: _____ Authorized Signatory</p>	<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>MACARIO TEODORO REYES</b></p> <p><i>[Signature]</i></p> <p>_____</p>

**SCHEDULE "A"****List of Security Documents**

1. Mortgage and Assignment of Rents granted by the Borrower to the Lender, registered in the Vancouver Land Title Office on March 15, 2018 under registration numbers CA6681010 and CA6681011, as modified by Modification of Mortgage registered on September 15, 2020 registered under registration number CA8430029, charging the Property, with express mortgage terms attached thereto.
2. Beneficial Owner Agreement creating a first priority equitable mortgage in and to the Property, dated March 9, 2018, executed by the Borrower and the LP.
3. General Security Agreement dated March 9, 2018, granted to the Lender by the Borrower and the LP.
4. Full Recourse Guarantee for the indebtedness of the Borrower dated March 9, 2018, granted to the Lender by the LP, Port Capital Development and Macario.
5. Assignment of Material Documents dated March 9, 2018, granted to the Lender by the Borrower and the LP.
6. Assignment of Sale Agreements dated March 9, 2018, granted to the Lender by the Borrower and the LP.
7. Undertaking to Complete dated March 9, 2018, granted to the Lender by the Credit Parties.
8. Mortgage granted by the Borrower to the Lender registered in the Vancouver Land Title Office on September 15, 2020 under registration number CA8430043, charging the Property, with express mortgage terms attached thereto.
9. Beneficial Owner Agreement creating a second priority equitable mortgage in and to the Property, dated September 15, 2020, executed by the Borrower and the LP.
10. General Security Agreement dated September 15, 2020 granted to the Lender by the Borrower and the LP.
11. Full Recourse Guarantee for the indebtedness of the Borrower dated September 15, 2020, granted to the Lender by the LP, Port Capital Development and Macario.
12. Assignment of Material Documents dated September 15, 2020, granted to the Lender by the Borrower and the LP.
13. Assignment of Sale Agreements dated September 15, 2020, granted to the Lender by the Borrower and the LP.

This is **Exhibit "F"** referred to in the  
affidavit of Trevor Herr

sworn this <sup>8<sup>th</sup></sup>..... day of June 2022.



.....  
A Commissioner for taking Affidavits  
within Ontario

- 1 -

## SUPPLEMENTAL FORBEARANCE AGREEMENT

This Agreement is dated for reference January 20, 2022

<p>BETWEEN:</p> <p><b><u>INSTITUTIONAL MORTGAGE CAPITAL CANADA INC.</u></b>, as General Partner of <b><u>IMC LIMITED PARTNERSHIP</u></b>, 199 Bay Street, Suite 1900, Commerce Court, Box 271, Toronto, Ontario M5L 1E9</p> <p>(the "Lender")</p>	
<p>AND:</p> <p><b><u>0876242 B.C. LTD.</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>(the "Borrower")</p>	<p>AND:</p> <p><b><u>GATEWAY DEVELOPMENT LIMITED PARTNERSHIP</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>(the "LP")</p>
<p>AND:</p> <p><b><u>PORT CAPITAL DEVELOPMENT INC.</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>("Port Capital Development")</p>	<p>AND:</p> <p><b><u>MACARIO TEODORO REYES</u></b>, 328 West 2<sup>nd</sup> Avenue, Vancouver, British Columbia V5Y 1C8</p> <p>("Macario" and together with Port Capital Development, the LP and the Borrower, the "Credit Parties")</p>

### WHEREAS:

- A. Pursuant to a Forbearance Agreement dated for reference November 8, 2021 (the "Forbearance Agreement") between the Credit Parties and the Lender, the Lender agreed to forbear from taking steps to collect the Indebtedness or enforce the Security until after January 1, 2022 or such later date as may be agreed to by the Lender in its sole discretion, on the terms and conditions set out therein and provided no Event of Default occurred.
- B. The Credit Parties have defaulted under the Forbearance Agreement by virtue of failing to discharge the Certificates of Pending Litigation on title to the Property and failing to secure the Funding Shortfall pursuant to sections 14 and 20 of the Forbearance Agreement.

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- C. Notwithstanding the above, the Credit Parties have requested that the Lender continue to forbear from taking steps to recover the Indebtedness and enforce the Security in order to provide the Credit Parties with a further period of time to address their financial difficulties and complete the Project.

**WITNESSES THAT** for consideration the Credit Parties and the Lender agree to the following terms and conditions:

1. The Credit Parties acknowledge and agree that the recitals to this Agreement above are incorporated into and form an integral part of this Agreement and are true and accurate in every respect.
2. Unless otherwise indicated, the capitalized terms herein have the same meaning as in the Forbearance Agreement.

**Forbearance**

3. Subject to the execution and delivery of this Agreement to the Lender, the Lender agrees that, subject to the terms herein, it will not take steps to enforce the Security or recover the Indebtedness until after **March 1, 2022** (the "**Extended Forbearance Period**") or such later date as may be agreed to by the Lender in its sole discretion.
4. The Credit Parties acknowledge and agree that the Extended Forbearance Period is reasonable in the circumstances.
5. Notwithstanding the Credit Parties' obligations set out in this Agreement may contemplate payments and reporting beyond the Extended Forbearance Period, nothing contained in this Agreement shall be deemed to extend the Extended Forbearance Period beyond March 1, 2022, or such later date as the Lender may agree to in writing.

**Confirmation of Forbearance Agreement, Indebtedness, and Security**

6. The Credit Parties acknowledge that as at January 1, 2022 the outstanding balance on account of the Indebtedness is as follows:
  - (a) \$29,814,920.96 on account of the Construction Loan; and
  - (b) \$4,160,518.01 on account of the Cost Overrun Facility.
7. The Credit Parties acknowledge and agree that, except as set out herein, the Lender is not under any obligation whatsoever to provide further loans, overdraft facilities, or other credit facilities to the Borrower or the LP.
8. The Credit Parties acknowledge and agree that the Indebtedness is due and owing by the Borrower to the Lender, and hereby waive any rights they may have as at the date of this Agreement to claim any abatement or offset of the amounts whether arising by way of defence or counterclaim.

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9. The Credit Parties hereby ratify and re-confirm all representations, warranties, covenants, releases and waivers contained in the Forbearance Agreement.
10. The confirmations and acknowledgments herein by each of the Credit Parties in relation to the Indebtedness and the Security Documents constitute acknowledgements of their respective liability for the Indebtedness and pursuant to the Security as contemplated by the British Columbia *Limitation Act*.

#### **Title to the Property**

11. On or before February 15, 2022, the Credit Parties shall attend to the discharge of all charges and notations registered on title of the Property after September 15, 2020, including, without limitation, the following:
  - (a) Certificate of Pending Litigation registered under registration number CA8961936 on April 29, 2021, in favour of Seeb Capital Ltd.; and
  - (b) Certificate of Pending Litigation registered under registration number CA9145196 on June 29, 2021 in favour of Mark Vanry;

#### **Strata Unit Contracts**

12. On or before February 15, 2022, the Credit Parties shall provide written confirmation, satisfactory to the Lender in its sole discretion, that all firm contracts of purchase and sale for strata units in the Project have been duly extended such that the closing dates in relation thereto coincide with the target date for the Project's completion and occupancy.

#### **Funding Shortfall**

13. On or before February 22, 2022, the Credit Parties shall make arrangements, satisfactory to the Lender in its sole and absolute discretion, for the injection of the Funding Shortfall into the Project, which Funding Shortfall is currently estimated at \$800,000.

#### **Forbearance Fee**

14. The Borrower shall pay to the Lender a further forbearance fee in the amount of \$25,000, which fee shall be included and form part of the Indebtedness as the Lender, in its sole and absolute discretion sees fit, and shall be secured by the Security.

#### **General**

15. The Credit Parties acknowledge and agree that upon expiry of the Extended Forbearance Period herein or upon the happening of a further Event of Default under the Forbearance Agreement, or default under this Agreement, then the Lender shall have the immediate right to terminate the remainder of the Extended Forbearance Period herein, if any, and proceed to issue formal demand for payment followed by enforcement of the Security in the event of non-payment in full pursuant to such demand.



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16. In the event of security enforcement by the Lender in accordance with the preceding paragraphs, the Credit Parties irrevocably consent to the appointment of a Receiver or a Receiver-Manager and all of the corporate Credit Parties assets, property and undertakings, with power of sale in favor of such Receiver/Manager. The Credit Parties acknowledge and agree that the Lender may rely on this Agreement together with the Forbearance Agreement, as evidence of the corporate Credit Parties' irrevocable consent to the appointment of a Receiver or a Receiver-Manager in any court application for the appointment of such Receiver or Receiver-Manager.
17. The Lender may, at its option and in its sole discretion, waive any Event of Default but such waiver shall not constitute a waiver of any subsequent event which would constitute an Event of Default herein.
18. Except as set out herein, all other terms and conditions of the Forbearance Agreement shall remain in full force and effect and are hereby ratified and confirmed.
19. Each of the Credit Parties acknowledge and agree that this Agreement shall in all respects be binding upon them, and their respective administrators, successors, and assigns.
20. If there is any inconsistency between this Agreement and any other agreement with the Lender concerning the Indebtedness, the provisions of this Agreement shall prevail.
21. This Agreement may be executed in two or more counterparts and all such executed counterparts shall constitute one in the same document. All such counterparts may be delivered by fax or any electronic form.
22. Each of the Credit Parties acknowledge and agree that they have had the opportunity to seek independent legal advice prior to execution of this Agreement.

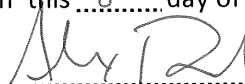
*[Signature page follows]*

IN WITNESS WHEREOF the parties have caused these presents to be executed on the day and year first written above.

<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>INSTITUTIONAL MORTGAGE CAPITAL CANADA INC., as General Partner of IMC LIMITED PARTNERSHIP</b></p> <p>Per: <u></u> Authorized Signatory</p>	
<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>0876242 B.C. LTD.</b></p> <p>Per: <u></u> Authorized Signatory</p>	<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>GATEWAY DEVELOPMENT LIMITED PARTNERSHIP, by its General Partner, PORT CAPITAL DEVELOPMENT (GATE) INC.</b></p> <p>Per: <u></u> Authorized Signatory</p>
<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>PORT CAPITAL DEVELOPMENT INC.</b></p> <p>Per: <u></u> Authorized Signatory</p>	<p>ACCEPTED, ACKNOWLEDGED AND AGREED:</p> <p><b>MACARIO TEODORO REYES</b></p> <p><u></u></p>

This is **Exhibit "G"** referred to in the  
affidavit of Trevor Herr

sworn this <sup>8<sup>th</sup></sup>..... day of June 2022.



.....  
A Commissioner for taking Affidavits  
within Ontario



Pacific Centre, PO Box 10023  
 Suite 700, 700 West Georgia Street  
 Vancouver, BC, V7Y 1A1  
 Tel +1 604 683 3111  
 Fax +1 604 683 0432  
 cushmanwakefield.com

January 14<sup>th</sup>, 2022

**Institutional Mortgage Capital**  
 77 King Street West, Suite 4120  
 Toronto, Ontario M5K 1G8

**RE: 3333 Bridgeway Street, Vancouver, BC (the "Property") – 6<sup>th</sup> Floor Sale Timeline & Revenue Expectation**

Dear Darren Schmidt:

The following is an update of Cushman & Wakefield ULC's (C&W) anticipated sale timeline and revenue for the sale of units 630, 640, 650 and 660 on the 6<sup>th</sup> floor of the Property (the "Units").

Our fall marketing campaign commenced September 14, 2021. Over the first two and a half months of the campaign interest activity was strong with 8 property tours and over 25 inquiries. On November 4<sup>th</sup>, 2021 we received an offer to purchase from PWS Contracting for unit 630. This resulted in a conditionally accepted offer at \$788.95 per sq.ft. Despite the purchaser's willingness to proceed their financing was not approved and they had to withdraw from the purchase. That said, the group is still interested and currently working with their lender on a solution. Following mid-November interest velocity substantially declined as the Omicron variant of COVID-19 started emerging coupled with agents and principals beginning to take long-awaited vacations moving into the holiday season. Now that the holiday season is over, and people are back at work we launched our new marketing campaign on January 12<sup>th</sup>, 2022. This was disseminated to our proprietary lists of owner users, investors, and agents totaling 8,966 recipients. The response to this campaign has been robust so far with nine inquiries and two site tours scheduled for the week of January 17<sup>th</sup>, 2022. This campaign will continue for the balance of the year with monthly marketing action items to keep the opportunity top of mind and generate a continuous flow of interest activity.

Taking into consideration the average timeline for an accepted offer from introduction is two to three weeks, an average conditional period of thirty to forty-five days, current interest activity, and market demand, **C&W anticipates having two units under firm offer by mid-March.**

This forecast is predicated on a stable spring market without any major changes to the current lending environment and a steady decline in COVID-19 cases.

Although the remaining units are being marketed at an asking price of \$825 per sq. ft., and our intent is to achieve these numbers, **C&W's revenue expectation for the units is between \$700 per sq. ft. and \$800 per sq. ft.**

*This communication is not intended to cause or induce breach of existing agency agreement.*

(E.&O.E): The Information contained herein was obtained from sources which we deem reliable and while thought to be correct, is not guaranteed by Cushman & Wakefield ULC



Should you have any further questions please feel free to contact the undersigned.

Thank you,

A handwritten signature in black ink, appearing to read 'M. MacLean'.

**Matthew MacLean**  
Personal Real Estate Corporation  
Senior Vice President  
Direct: +1 604.640.5855  
matthew.maclean@ca.cushwake.com

A handwritten signature in black ink, appearing to read 'A. Jelescu'.

**Andrei Jelescu**  
Commercial Sales & Leasing  
Senior Associate  
Direct: +1 604.640.5812  
andrei.jelescu@ca.cushwake.com

This is **Exhibit "H"** referred to in the  
affidavit of Trevor Herr

sworn this <sup>8<sup>th</sup></sup>..... day of June 2022.



.....  
A Commissioner for taking Affidavits  
within Ontario

## REVENUE PROJECTION

Unsold 6th floor at 700

	SF	PP	PSF	Broker fee			Tx on fee	Net proceeds
				%	Broker fee			
110 (2018 Presale)	1,555	\$ 816,375	\$ 525	3.0%	\$ 24,491	\$ 1,225	790,659	
120&130 (2018 Pre-sale)	3,936	\$ 2,000,000	\$ 508	3.0%	\$ 60,000	\$ 3,000	1,937,000	
140&150 (2021 Sale)	3,732	\$ 2,519,100	\$ 675	3.0%	\$ 75,573	\$ 3,779	2,439,748	
Second Floor - NYX - See Note below	16,891	\$ 6,700,000	\$ 397	1.5%	\$ 100,500	\$ 5,025	6,594,475	
Floors 3-5 Self Storage - GFA	69,096	\$ 18,020,000	\$ 261	1.5%	\$ 294,000	\$ 14,700	17,711,300	
610 - (2021 Sale)	2,035	\$ 1,425,500	\$ 700	3.0%	\$ 42,765	\$ 2,138	1,380,597	
620 - (2021 Sale)	1,666	\$ 1,166,200	\$ 700	3.0%	\$ 34,986	\$ 1,749	1,129,465	
630 <i>Unsold</i>	2,028	\$ 1,419,600	\$ 700	3.0%	\$ 42,588	\$ 2,129	1,374,883	
640 <i>Unsold</i>	2,028	\$ 1,419,600	\$ 700	3.0%	\$ 42,588	\$ 2,129	1,374,883	
650 <i>Unsold</i>	1,777	\$ 1,243,900	\$ 700	3.0%	\$ 37,317	\$ 1,866	1,204,717	
660 <i>Unsold</i>	2,281	\$ 1,596,700	\$ 700	3.0%	\$ 47,901	\$ 2,395	1,546,404	
	107,025	\$ 38,326,975			\$ 802,709	\$ 40,135	37,484,130	

Less: Class C shares of Self Storage LP used to satisfy purchase price of 2nd Floor (1,900,000)

Net Proceeds 35,584,130

Unsold 6th floor at 750

	SF	PP	PSF	Broker fee			Tx on fee	Net proceeds
				%	Broker fee			
110 (2018 Presale)	1,555	\$ 816,375	\$ 525	3.0%	\$ 24,491	\$ 1,225	790,659	
120&130 (2018 Pre-sale)	3,936	\$ 2,000,000	\$ 508	3.0%	\$ 60,000	\$ 3,000	1,937,000	
140&150 (2021 Sale)	3,732	\$ 2,519,100	\$ 675	3.0%	\$ 75,573	\$ 3,779	2,439,748	
Second Floor - NYX - See Note below	16,891	\$ 6,700,000	\$ 397	1.5%	\$ 100,500	\$ 5,025	6,594,475	
Floors 3-5 Self Storage - GFA	69,096	\$ 18,020,000	\$ 261	1.5%	\$ 294,000	\$ 14,700	17,711,300	
610 - (2021 Sale)	2,035	\$ 1,425,500	\$ 700	3.0%	\$ 42,765	\$ 2,138	1,380,597	
620 - (2021 Sale)	1,666	\$ 1,166,200	\$ 700	3.0%	\$ 34,986	\$ 1,749	1,129,465	
630 <i>Unsold</i>	2,028	\$ 1,521,000	\$ 750	3.0%	\$ 45,630	\$ 2,282	1,473,089	
640 <i>Unsold</i>	2,028	\$ 1,521,000	\$ 750	3.0%	\$ 45,630	\$ 2,282	1,473,089	
650 <i>Unsold</i>	1,777	\$ 1,332,750	\$ 750	3.0%	\$ 39,983	\$ 1,999	1,290,768	
660 <i>Unsold</i>	2,281	\$ 1,710,750	\$ 750	3.0%	\$ 51,323	\$ 2,566	1,656,861	
	107,025	\$ 38,732,675			\$ 814,880	\$ 40,744	37,877,051	

Less: Class C shares of Self Storage LP used to satisfy purchase price of 2nd Floor (1,900,000)

Net Proceeds 35,977,051

Unsold 6th floor at 775

	SF	PP	PSF	Broker fee			Tx on fee	Net proceeds
				%	Broker fee			
110 (2018 Presale)	1,555	\$ 816,375	\$ 525	3.0%	\$ 24,491	\$ 1,225	790,659	
120&130 (2018 Pre-sale)	3,936	\$ 2,000,000	\$ 508	3.0%	\$ 60,000	\$ 3,000	1,937,000	
140&150 (2021 Sale)	3,732	\$ 2,519,100	\$ 675	3.0%	\$ 75,573	\$ 3,779	2,439,748	
Second Floor - NYX - See Note below	16,891	\$ 6,700,000	\$ 397	1.5%	\$ 100,500	\$ 5,025	6,594,475	
Floors 3-5 Self Storage - GFA	69,096	\$ 18,020,000	\$ 261	1.5%	\$ 294,000	\$ 14,700	17,711,300	
610 - (2021 Sale)	2,035	\$ 1,425,500	\$ 700	3.0%	\$ 42,765	\$ 2,138	1,380,597	
620 - (2021 Sale)	1,666	\$ 1,166,200	\$ 700	3.0%	\$ 34,986	\$ 1,749	1,129,465	
630 <i>Unsold</i>	2,028	\$ 1,571,700	\$ 775	3.0%	\$ 47,151	\$ 2,358	1,522,191	
640 <i>Unsold</i>	2,028	\$ 1,571,700	\$ 775	3.0%	\$ 47,151	\$ 2,358	1,522,191	
650 <i>Unsold</i>	1,777	\$ 1,377,175	\$ 775	3.0%	\$ 41,315	\$ 2,066	1,333,794	
660 <i>Unsold</i>	2,281	\$ 1,767,775	\$ 775	3.0%	\$ 53,033	\$ 2,652	1,712,090	
	107,025	\$ 38,935,525			\$ 820,966	\$ 41,048	38,073,511	

Less: Class C shares of Self Storage LP used to satisfy purchase price of 2nd Floor (1,900,000)

Net Proceeds 36,173,511

Unsold 6th floor at 800

	SF	PP	PSF	Broker fee			Tx on fee	Net proceeds
				%	Broker fee			
110 (2018 Presale)	1,555	\$ 816,375	\$ 525	3.0%	\$ 24,491	\$ 1,225	790,659	
120&130 (2018 Pre-sale)	3,936	\$ 2,000,000	\$ 508	3.0%	\$ 60,000	\$ 3,000	1,937,000	
140&150 (2021 Sale)	3,732	\$ 2,519,100	\$ 675	3.0%	\$ 75,573	\$ 3,779	2,439,748	
Second Floor - NYX - See Note below	16,891	\$ 6,700,000	\$ 397	1.5%	\$ 100,500	\$ 5,025	6,594,475	
Floors 3-5 Self Storage - GFA	69,096	\$ 18,020,000	\$ 261	1.5%	\$ 294,000	\$ 14,700	17,711,300	
610 - (2021 Sale)	2,035	\$ 1,425,500	\$ 700	3.0%	\$ 42,765	\$ 2,138	1,380,597	
620 - (2021 Sale)	1,666	\$ 1,166,200	\$ 700	3.0%	\$ 34,986	\$ 1,749	1,129,465	
630 <i>Unsold</i>	2,028	\$ 1,622,400	\$ 800	3.0%	\$ 48,672	\$ 2,434	1,571,294	
640 <i>Unsold</i>	2,028	\$ 1,622,400	\$ 800	3.0%	\$ 48,672	\$ 2,434	1,571,294	
650 <i>Unsold</i>	1,777	\$ 1,421,600	\$ 800	3.0%	\$ 42,648	\$ 2,132	1,376,820	
660 <i>Unsold</i>	2,281	\$ 1,824,800	\$ 800	3.0%	\$ 54,744	\$ 2,737	1,767,319	
	107,025	\$ 39,138,375			\$ 827,051	\$ 41,353	38,269,971	

Less: Class C shares of Self Storage LP used to satisfy purchase price of 2nd Floor (1,900,000)

Net Proceeds 36,369,971

Unsold 6th floor at	850
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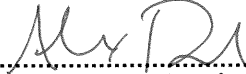
	SF	PP	PSF	Broker fee %	Broker fee	Tx on fee	Net proceeds
110 (2018 Presale)	1,555	\$ 816,375	\$ 525	3.0%	\$ 24,491	\$ 1,225	790,659
120&130 (2018 Pre-sale)	3,936	\$ 2,000,000	\$ 508	3.0%	\$ 60,000	\$ 3,000	1,937,000
140&150 (2021 Sale)	3,732	\$ 2,519,100	\$ 675	3.0%	\$ 75,573	\$ 3,779	2,439,748
Second Floor - NYX - See Note below	16,891	\$ 6,700,000	\$ 397	1.5%	\$ 100,500	\$ 5,025	6,594,475
Floors 3-5 Self Storage - GFA	69,096	\$ 18,020,000	\$ 261	1.5%	\$ 294,000	\$ 14,700	17,711,300
610 - (2021 Sale)	2,035	\$ 1,425,500	\$ 700	3.0%	\$ 42,765	\$ 2,138	1,380,597
620 - (2021 Sale)	1,666	\$ 1,166,200	\$ 700	3.0%	\$ 34,986	\$ 1,749	1,129,465
630 <i>Unsold</i>	2,028	\$ 1,723,800	\$ 850	3.0%	\$ 51,714	\$ 2,586	1,669,500
640 <i>Unsold</i>	2,028	\$ 1,723,800	\$ 850	3.0%	\$ 51,714	\$ 2,586	1,669,500
650 <i>Unsold</i>	1,777	\$ 1,510,450	\$ 850	3.0%	\$ 45,314	\$ 2,266	1,462,871
660 <i>Unsold</i>	2,281	\$ 1,938,850	\$ 850	3.0%	\$ 58,166	\$ 2,908	1,877,776
	107,025	\$ 39,544,075			\$ 839,222	\$ 41,961	38,662,892

Less: Class C shares of Self Storage LP used to satisfy purchase price of 2nd Floor (1,900,000)

**Net Proceeds** 36,762,892



This is **Exhibit "I"** referred to in the  
affidavit of Trevor Herr  
sworn this <sup>8<sup>th</sup></sup>..... day of June 2022.



.....  
A Commissioner for taking Affidavits  
within Ontario

## AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (the “**Agreement**”) dated as of the 3<sup>rd</sup> day of March, 2022 between NYX Capital Investments Corp. (to be assigned to an entity to be incorporated or formed) (the “**Purchaser**”) of the first part and Gateway Development Limited Partnership (the “**Beneficial Owner**”) and 0876242 B.C. LTD (the “**Nominee**”) of the second part (collectively, the “**Vendor**”). All references to “Vendor” herein shall be read as plural and all obligations, representations, warranties or other statements (as the case may be) and applicable to both the Beneficial Owner and the Nominee on a joint and several basis.

### 1. **PROPERTY**

1.1 The Purchaser hereby agrees to purchase and the Vendor agrees to sell, free and clear of all liens, charges, claims and encumbrances save and except for those described in Schedule “B” hereto (collectively, the “**Permitted Encumbrances**”), from the Vendor the property (the “**Property**”) with a floor area of approximately 16,891 gross square feet, being the second floor of the building with the civic address of 3333 Bridgeway Street, Vancouver, British Columbia and comprising:

- (a) the proposed Strata Lots 6, 7, 8, 9, 10 and 11; and
- (b) an approximately 99 year leasehold, subleasehold, or exclusive licence interest for parking spaces that have been allocated for the second floor and any additional parking spaces to be allocated for the second floor of which the lessee pays the operational costs of ownership (which, for clarity, exclude the cost of any financing of such parking spaces, and with the specific parking spaces and all applicable costs, to the extent that they are discernable, to be agreed upon by the Purchaser and Vendor on or before the Due Diligence Date as defined below),

in the development (the “**Building**”) to be constructed on the parent lands currently legally described as Parcel Identifier: 011-154-551, Block K, except part on Reference Plan 8675, Now Lane Town of Hastings Plan 5461 which will subsequently be subdivided pursuant to the *Strata Property Act* (British Columbia) by the deposit of a strata plan in the Vancouver Land Title Office substantially as shown on the preliminary strata plan attached hereto as Schedule “A” (the “**Project**”).

### 2. **RIGHT OF FIRST OFFER**

2.1 The Vendor and the Purchaser understand that the second floor of the Building is currently under lease by way of a lease agreement dated November 27, 2018 between Suna Entertainment Group Inc. (the “**Tenant**”) and Gateway Development Limited Partnership (the “**Second Floor Lease**”). Closing shall be conditional upon termination of the Second Floor Lease, including any Tenant’s right of first offer to purchase the second floor, and delivery to the Purchaser of evidence satisfactory to the Purchaser that such termination has occurred. Any incentives required to terminate the Second Floor Lease will be at the sole cost of the Vendor.

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2.2 In the event that the Vendor has not successfully terminated the Second Floor Lease by the end of the 30<sup>th</sup> day following the Acceptance Date, the Vendor may elect to terminate this Agreement by written notice to the Purchaser.

2.3 In the event that the Vendor has not successfully terminated the Second Floor Lease by the end of the 30<sup>th</sup> day following the Acceptance Date, the Vendor may elect to terminate this Agreement by written notice to the Purchaser.

### 3. PRICE, DEPOSIT AND PAYMENT

3.1 The purchase price for the sale and purchase of the Property shall be the sum of \$6,700,000 (the "**Purchase Price**") including the Vendor's Work set out in Schedule "C".

3.2 The Purchaser shall satisfy the Purchase Price for the Property as follows:

- (a) **\$240,000** by way of deposit (the "**Deposit**") paid by the Purchaser to the Vendor's solicitor, to be held in trust (the "**Deposit Holder**") within 5 days other than a Saturday, Sunday or statutory holiday in the Province of Ontario or in the Province of British Columbia and shall be a date that the land registry office in Vancouver is open for business ("**Business Days**") following the date on which the Vendor has delivered to the Purchaser evidence satisfactory to the Purchaser (acting reasonably) of termination of the Second Floor Lease;
- (b) the issuance of 1,900 Class C Units (the definition and terms of which are set forth in Schedule "D"); and
- (c) the balance of the Purchase Price, subject to the adjustments provided for hereunder, shall be paid by wire transfer on the Closing Date.

The Deposit shall be paid to the Vendor's counsel in trust with interest, if any, accruing thereon for the account of the Purchaser. The Deposit will be:

- (i) paid to the Vendor:
  - A. on account of the Purchase Price on the Closing Date in accordance herewith; or
  - B. on account of damages and forfeited to the Vendor, if the purchase and sale contemplated herein (the "**Transaction**") is not completed as a result of a default by the Purchaser, without prejudice to any other right or remedy of the Vendor; or
- (ii) returned to the Purchaser:
  - A. if the Transaction is not completed as a result of anything other than a default of the Purchaser, and without prejudice to any other right or remedy of the Purchaser.

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Notwithstanding the foregoing, in the event that the Purchaser is satisfied in its sole and unfettered discretion with security granted by the Vendor (both in the amount of security and quality of the security) to secure the Vendor's obligation to return the deposit if required pursuant to this Agreement, then upon a written direction executed by the Purchaser authorizing the Vendor's counsel to release the Deposit, the Deposit may be released to the Vendor for use of such funds in respect of the Project (and only in respect of the Project).

#### 4. ACCESS TO PROPERTY

- 4.1 **Access.** The Vendor agrees that the Purchaser may enter upon the Property at all reasonable hours following the date of this Agreement and from time to time prior to Closing, in each case in coordination with the Vendor and, at the option of the Vendor, accompanied by a representative of the Vendor, for the purpose of completing such tests, inspections and studies as the Purchaser may require, acting reasonably (collectively, the "**Inspection Activities**"), provided that the Purchaser shall indemnify and save harmless the Vendor of and from all costs, losses, injury or damage that may occur as a result of the Inspection Activities and provided that such Inspection Activities shall be scheduled and carried out such that they do not impact the construction schedule of the Vendor. The Purchaser agrees to restore the Property at its own expense to its condition prior to the Inspection Activities and to rectify any damage caused by the Inspection Activities in the event that this Agreement is not completed for any reason whatsoever, other than default by the Vendor.
- 4.2 The Vendor shall at the Purchaser's request execute and deliver any authorizations reasonably required by the Purchaser to authorize the release of information by any statutory or governmental authority to the Purchaser in order for the Purchaser to carry out its reasonable due diligence inquiries but such authorizations shall not authorize such statutory or governmental authority to carry out any inspection of the Property.

#### 5. REPRESENTATIONS AND WARRANTIES

- 5.1 The Vendor hereby represents and warrants to the Purchaser and acknowledges that the Purchaser has relied thereon in entering into this Agreement and in concluding the transaction of purchase and sale herein, that as of the date hereof (unless otherwise specified) and the Closing Date that:
- (a) the Vendor is the registered owner of the Property with good and marketable title thereto in fee simple;
  - (b) the final bylaws and any constating documents of the strata corporation to be registered in respect of the Building shall be substantially in the form of the proposed bylaws and any constating documents delivered by the Vendor to the Purchaser prior to the Due Diligence Date or which are otherwise approved in writing by the Purchaser, acting reasonably, prior to Closing;
  - (c) the Property shall be constructed in accordance with the draft strata plan attached hereto as Schedule "A" with no changes thereto other than those made with the prior consent of the Purchaser, which consent shall not be unreasonably withheld, delayed, or conditioned;

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- (d) the Vendor is the sole beneficial owner of the Property and registered ownership is held by the Nominee, being a nominee of the Vendor;
- (e) the Vendor is duly formed or incorporated and validly existing under the laws of its jurisdiction, is registered in British Columbia and is in good standing under the laws of British Columbia and under the laws of its jurisdiction if outside of British Columbia, and has the power and capacity to own and dispose of its respective interest in the Property, to enter into this Agreement and to carry out its terms, all of which has been, or by the Closing Date shall have been, duly authorized;
- (f) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* of Canada;
- (g) to the Vendor's knowledge, there are no outstanding claims, actions and/or proceedings relating to the Property. Specifically, the Vendor has not received any such claims, actions and/or proceedings relating to the Property environmental matters;
- (h) to the best of the Vendor's knowledge, the Vendor has not received any written notice of any expropriation proceedings pending or threatened against the Property;
- (i) the Vendor is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) as amended and the Vendor has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof;
- (j) all accounts owing for work, labour, materials, services and equipment performed outside of the ordinary course of business for or on behalf of the Vendor in respect of or relating to the Property have been fully paid for and the Vendor has not received notice of any claim in respect of any lien;
- (k) on the Closing Date, the Vendor will not have any employees employed with respect to the Property and all management agreements in respect of the management of the Property will be terminated on or before the Closing Date;
- (l) as of the date hereof, there are no options to purchase or rights of first refusal to purchase with respect to the Property that have not expired or been waived, except for the option to purchase contained in the Second Floor Lease;
- (m) on the Closing Date, there shall be no options to purchase or rights of first refusal to purchase with respect to the Property that have not expired or been waived;
- (n) the Property will not on Closing have any tenants and there shall be no leasehold interests held in the Property;
- (o) there are no environmental claims relating to the Property, and to the best of the Vendor's knowledge, there are no threatened or pending environmental claims relating to the Property;

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- (p) the Property is fully serviced and potable drinking water is available at the Property;
- (q) save and except for the Permitted Encumbrances, the Vendor has not executed a subdivision or other development related agreement with the municipality and/or region in connection with the Property;
- (r) on Closing there will be no encumbrances registered against the Property save and except for the Permitted Encumbrances and there will be no work orders, open permits (except for work then being completed in accordance with this Agreement) or any other unresolved infractions with respect to the Property;
- (s) on Closing there will be no arrears in respect of taxes, municipal services or any other debts or unpaid amounts which could form a lien against the Property; and
- (t) there shall be no default of the Vendor of any material term of the Floor 345 Purchase Agreement.

## 6. ADDITIONAL COVENANTS OF THE VENDOR

- 6.1 The Vendor hereby covenants and agrees with the Purchaser, from the date on which the Vendor and Purchaser have each executed and delivered this Agreement to the other (the "**Acceptance Date**") until the Closing Date, as follows:
- (a) to continue to operate, manage and maintain the Property until the Closing Date as would a prudent owner of property of comparable type, age, class and location;
  - (b) to maintain insurance coverage in respect of the Property in full force and effect up to and including the Closing Date in such amounts and on such terms as would a prudent owner;
  - (c) to terminate all service contracts in respect of the Property other than those to be carried forward as part of strata maintenance, provided that any such service contracts being carried forward shall be subject to the consent of the Purchaser, which consent shall not be unreasonably withheld, delayed, or conditioned (and where such consent is given such contract shall be referred to herein as a "**Permitted Service Contract**");
  - (d) pay when due any indebtedness of the Vendor to any governmental authority which by operation of law or otherwise, could become a lien, charge or encumbrance against the Property from and after the Closing Date, including without limitation, corporation capital taxes and workers compensation payments; and
  - (e) not to modify, amend or cancel any of the Permitted Encumbrances without the prior approval of the Purchaser.
- 6.2 No maintenance contract or other commitment or agreement with respect to the Property or the operation, maintenance and management thereof, shall be made by or

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renewed by the Vendor without the prior written consent of the Purchaser not to be unreasonably withheld, delayed, or conditioned. The Vendor will keep the Purchaser fully informed with respect to all aspects of the Property and will not enter into any new service contracts or modify existing service contracts without the prior written consent of the Purchaser not to be unreasonably withheld, delayed, or conditioned.

- 6.3 The Purchaser shall be entitled to have and Vendor shall provide the Purchaser with vacant possession of the Property subject to the Permitted Encumbrances following payment of the balance of the Purchase Price on the Closing Date.
- 6.4 The Purchaser shall not be required to take on the employees, if any, of the Vendor or of any other person, employed in connection with the Property. If there are any such employees, the Vendor shall either terminate the employment of them on or before the Closing Date or shall transfer such employees to other duties on or before the Closing Date, all at the cost and risk of the Vendor.
- 6.5 The Vendor shall cause the preparation and registration of strata bylaws for the Project which will accommodate the use of the Property as a self-storage facility and will not contain restrictions that will interfere with such usage. The Vendor shall provide the Purchaser with drafts of such strata by-laws at least 10 Business Days prior to the registration thereof and shall obtain the Purchaser's written approval of such strata bylaws (which approval shall not be unreasonably withheld) prior to the finalization and registration of such by-laws.

## 7. CLOSING CONDITIONS

- 7.1 The Purchaser's obligation to complete the purchase of the Property is subject to and conditional upon the occurrence of the following conditions (collectively, the "**Closing Conditions**") on or before the dates as indicated:
- (a) on or before the date that is 21 days following the Acceptance Date (the "**Due Diligence Date**"), the Purchaser shall be satisfied, in its sole and unfettered discretion, with its due diligence in respect of the Property;
  - (b) at least 2 Business Days prior to the date in which the Vendor issues its notice in writing in respect of the Closing Date pursuant to Section 8.1 hereof, the Vendor shall have terminated the Second Floor Lease and any right of first offer to purchase in connection therewith or made such arrangements satisfactory to the Purchaser, acting reasonably, that such termination will be effective on or prior to the completion of the purchase and sale transaction contemplated herein, in each case providing such documentation to the Purchaser as is reasonably required to demonstrate such termination;
  - (c) on or before the Closing Date:
    - (i) the representations and warranties of each of the parties (including without limitation section 5 of this Agreement) constituting the Vendor contained in this Agreement shall be materially true and correct on and as of the Closing Date with

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the same effect as though such representations and warranties had been made on and as of the Closing Date;

- (ii) all of the covenants and agreements of the Vendor (including without limitation section 6 of this Agreement) to be observed and performed, and all of the documents to be delivered by the Vendor, on or before the Closing Date pursuant to the terms of this Agreement shall have been duly observed, performed and delivered;
  - (iii) the Vendor shall have completed to the satisfaction of the Purchaser in its sole and unfettered discretion all other in respect of the base building and all other matters set forth in Schedule "C" (collectively, the "**Base Building Work**"); and
  - (iv) the Vendor and the Purchaser shall have completed the transaction contemplated in the amended and restated agreement of purchase and sale for floors 3, 4 and 5 of the Building dated as of the date of this Agreement between the Purchaser, as purchaser, and the Vendor, as vendor, as amended, restated, supplemented, replaced or otherwise modified from time to time (the "**Floor 345 Purchase Agreement**").
- 7.2 Each of the Closing Conditions is for the sole benefit of the Purchaser and the Purchaser may waive, in whole or in part, any or all of the Closing Conditions by giving written notice of waiver to the Vendor on or before the Closing Date. If any of the Closing Conditions have not been satisfied or have not been waived by the Purchaser by the Closing Date, the Purchaser shall have the right (but not the obligation) to terminate this Agreement by written notice to the Vendor.
- 7.3 The Purchaser's obligation to complete the purchase of the Property is subject to and conditional upon the occurrence of the following conditions (collectively, the "**Pre-Closing Conditions**") on or before the date that is 15 days prior to the Closing Date:
- (a) the Vendor shall have delivered to the Purchaser a municipal permit for the occupancy of the Property for the Purchaser's intended purpose;
  - (b) the Vendor shall have provided confirmation to the Purchaser, to the Purchaser's satisfaction, acting reasonably, that the freight elevator opens to the second floor of the Building and that the loading is adequate for Purchaser's intended use of self-storage.
  - (c) the Vendor shall have registered approved strata bylaws in accordance with Section 6.5 of this Agreement;
  - (d) satisfactory strata status certificate confirming strata title to the Property to be delivered to Purchaser; and



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(e) all of the Pre-Closing Conditions set out in the Floor 345 Purchase Agreement shall have been satisfied.

7.4 Each of the Pre-Closing Conditions is for the sole benefit of the Purchaser and the Purchaser may waive, in whole or in part, any or all of the Pre-Closing Conditions by giving written notice of waiver to the Vendor on or before the date that is 15 days prior to the Closing Date. For greater certainty, no waiver of the Pre-Closing Conditions shall be inferred by merely by the extension of the Closing Date pursuant to this Agreement or otherwise.

7.5 If the Purchaser has ascertained that any or all of the representations and warranties or covenants and agreements of the Vendor contained in this Agreement are not accurate or have not been performed or observed, the Purchaser may elect at its sole option to complete the purchase of the Property without prejudice to the right of the Purchaser to recover damages resulting from the Vendor's misrepresentation or breach of warranty, covenant or agreement.

## 8. CLOSING DATE AND PROCEDURE

8.1 The date for the completion of the purchase and sale of the Property as herein contemplated (the "Closing" and such date, the "Closing Date") shall be initially set as the date that is 45 days following the date that the Vendor has issued to the Purchaser a notice in writing setting out the proposed Closing Date.

8.2 If the Pre-Closing Conditions have not been satisfied on or before the date that is 15 days prior to the initially set Closing Date, then the Closing Date shall be automatically extended by 30 days (the "First Extended Closing Date").

8.3 If the Pre-Closing Conditions have not been satisfied on or before the date that is 15 days prior to the First Extended Closing Date then the Closing Date shall be automatically further extended by 30 days (the "Second Extended Closing Date").

8.4 If the Pre-Closing Conditions have not been satisfied on or before the date that is 15 days prior to the Second Extended Closing Date, then the Purchaser may elect to terminate this Agreement, in which case the Vendor shall return the Purchaser's Deposit and all interest accrued thereon without any deduction; and if the Purchaser does not elect to terminate this Agreement (by giving written notice to the Vendor of the Purchaser's intention to terminate by the end of the date that is 15 days prior to the Second Extended Closing Date) then the Closing Date shall be automatically further extended by 30 days, and if the Pre-Closing Conditions have not been satisfied on or before the date that is 15 days prior to the Closing Date as automatically extended by this Section then the Purchaser's termination/extension right in this Section shall apply in respect of such extended Closing Date (*mutatis mutandis*) and the Purchaser shall have a perpetual right to continue to extend the Closing Date by 30 days or terminate and receive back its Deposit and interest (as provided above, *mutatis mutandis*) until the Pre-Closing Conditions have been satisfied on or prior to the date that is 15 days prior to the Closing Date as extended pursuant to this Section.

8.5 On or before the Closing Date, the Vendor shall deliver to the solicitors for the Purchaser, properly executed and in registrable form where applicable, all documents

reasonably required by the solicitors for the Purchaser which shall be prepared by the solicitors for the Vendor and shall be in form and substance approved by the solicitors for the Purchaser and the Vendor, each acting reasonably, in order to complete this transaction in accordance with its terms, including, without limitation:

- (a) a registrable Form A – Freehold Transfer (the “**Transfer**”) in the form prescribed by the *Land Titles Act* conveying the Property to the Purchaser subject to the Permitted Encumbrances and those financial charges, if any, to be paid out and discharged by the Vendor’s solicitors on Closing as provided herein;
- (b) a bill of sale with respect to the chattels (if any) if required by the Purchaser;
- (c) a Vendor’s statement of adjustments approved by the Purchaser delivered at least 7 Business Days prior to the Closing Date;
- (d) an assignment of the Vendor’s interest in the Permitted Service Contracts;
- (e) such notices of assignment as the Purchaser and its solicitors shall reasonably require to the other parties under Permitted Service Contracts;
- (f) discharges in registrable form of all liens, charges, claims and encumbrances not constituting Permitted Encumbrances, or undertakings from the solicitors for the Vendor, satisfactory to the Purchaser’s solicitors, acting reasonably, to discharge such liens, charges, claims and encumbrances, and where any such lien, charge, claim or encumbrance is financial in nature, such solicitor’s undertaking shall be accompanied with a discharge statement from the secured party and all amounts required to obtain a discharge shall be redirected from the closing proceeds to such secured party;
- (g) a certificate of an officer of the Vendor (on the Vendor’s behalf and not of the officer personally) dated as of the Closing Date and certifying that all representations and warranties of the Vendor set forth in this Agreement are materially true and correct and that to the best of the officer’s knowledge all covenants and agreements of the Vendor in this Agreement have been observed or performed, with particulars of exceptions, if any;
- (h) a statutory declaration from senior officers of the Vendor declaring that the Vendor is not a non-resident for purposes of Section 116 of the *Income Tax Act* (Canada);
- (i) an undertaking to readjust all items properly requiring adjustment on the statement of adjustments or improperly omitted therefrom;
- (j) all keys and security or access codes for the Property in the Vendor’s possession or control;
- (k) a certificate of an officer of the Vendor containing provisions that are customarily included for the purpose of obtaining title insurance in connection with the sale of commercial real estate;

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- (l) the direction referred to in Section 3.2 and
  - (m) such other documents as the Purchaser may reasonably require to document the sale and purchase herein, (including correspondence with governmental agencies), provided that none of such other documents shall extend or make more onerous the representations, warranties, covenants and obligations of the Vendor contained herein.
- 8.6 On or before the Closing Date, the Purchaser shall deliver to the solicitors for the Purchaser the following:
- (a) the balance of the Purchase Price as adjusted on the statement of adjustments, paid to the Vendor's solicitors, in trust, by wire transfer;
  - (b) agreements, in a form satisfactory to the Purchaser's and Vendor's solicitors, each acting reasonably, providing for the assumption by the Purchaser from and after the Closing Date of the obligations of the Vendor under the Permitted Service Contracts which the Purchaser has agreed to assume;
  - (c) a certificate of the Purchaser confirming that the Purchaser is a registrant within the meaning of Part IX of the *Excise Tax Act* of Canada (the "Act") and that the Purchaser's registration is in full force and effect together with reasonable evidence of the Purchaser's registration under the Act and an undertaking by the Purchaser to remit any tax exigible under the Act in respect of this transaction and to indemnify the Vendor against all loss, costs and damages resulting from the Purchaser's failure to do so;
  - (d) a certificate of an officer of the Purchaser (on the Purchaser's behalf and not of the officer personally) dated as of the Closing Date and certifying that all representations and warranties of the Purchaser set forth in this Agreement are materially true and correct and that to the best of the officer's knowledge all covenants and agreements of the Purchaser in this Agreement have been observed or performed, with particulars of exceptions, if any;
  - (e) an undertaking to readjust all items requiring readjustment or improperly omitted therefrom; and
  - (f) such other documents as the Vendor may reasonably require to document the sale and purchase herein, provided that none of such other documents shall extend or make more onerous the representations, warranties, covenants and obligations of the Purchaser contained herein.
- 8.7 The Vendor's solicitors will provide drafts of proposed closing documents to the Purchaser's solicitors for review and comment at least 5 Business Days prior to the Closing Date. On the Closing Date, all documents and funds shall be delivered to the solicitors for the Purchaser and shall be held in trust as set out below. Upon the Purchaser's solicitors:

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- (a) receiving all executed closing documents as described above and the balance of the Purchase Price less the proceeds of any new mortgage to be granted by the Purchaser to finance the purchase of the Property; and
- (b) being satisfied that all documentation required by the Purchaser's new mortgagee has been duly executed and provided, and knowing of no reason why the mortgage should not be registered and funds disbursed thereunder in the ordinary course;

the solicitors for the Purchaser shall deposit the Transfer for registration in the Land Titles Office. Provided that a search of title to the Property conducted immediately thereafter on the Closing Date by the Purchaser's solicitors indicates that the Transfer shall, in the normal course of Land Titles Office practice, be registered subject only to the Permitted Encumbrances, the Purchaser's new mortgage, if any, any other charges granted by the Purchaser and those charges which do not constitute Permitted Encumbrances and are to be discharged by the Vendor's solicitors, the solicitors for the Purchaser shall deliver the balance of the Purchase Price, subject to the adjustments provided for herein, to the Vendor's solicitors. The funds shall be forwarded to the Vendor's solicitors to pay out and discharge encumbrances on title not included in the Permitted Encumbrances on undertakings in a form agreed to by the Purchaser's and Vendor's solicitors, each acting reasonably. All closing documents shall be released to the appropriate parties when the balance of the Purchase Price is delivered on the Closing Date.

- 8.8 Registration of all the requisite documents in all appropriate offices of public record and all matters of payment and delivery of documents by each party to the other shall be deemed to be concurrent requirements of Closing so that the Closing shall not be completed hereunder until everything has been paid, delivered and registered.
- 8.9 The Vendor shall, after the Closing on the Closing Date, deliver to the Purchaser or as the Purchaser may direct, to the extent not previously delivered, the original documents described in Section 4.1 hereof (to the extent that they are in the Vendor's possession or control) and all books, invoices, statements, files, correspondence and other materials relating to the operations of the Property.
- 8.10 Registration of all the requisite documents in all appropriate offices of public record and all matters of payment and delivery of documents by each party to the other shall be deemed to be concurrent requirements of Closing so that the Closing shall not be completed hereunder until everything has been paid, delivered and registered.
- 8.11 The Vendor shall, after the Closing on the Closing Date, deliver to the Purchaser or as the Purchaser may direct, to the extent not previously delivered, the original documents described in Section 4.1 hereof (to the extent that they are in the Vendor's possession or control) and all books, invoices, statements, files, correspondence and other materials relating to the operations of the Property.
- 8.12 The purchase of the third, fourth and fifth floor of the Building pursuant to the Floor 345 Agreement shall be completed concurrently with the completion of the transaction contemplated in this Agreement and such concurrent completion shall be a closing condition of this Agreement.

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## 9. COSTS AND TAXES

- 9.1 The fees for the registration of the Transfer in the appropriate Land Titles Office and Property Transfer Tax in respect of the transaction shall be paid by the Purchaser.
- 9.2 The cost of obtaining and registering any documents required to clear title to the Property of any charges, liens, claims or encumbrances not constituting Permitted Encumbrances shall be borne by the Vendor.
- 9.3 The Purchaser is responsible for any Goods and Services Tax ("GST") in respect of this purchase and sale transaction. The Vendor and Purchaser acknowledge and agree that the Purchase Price does not include GST payable under the Excise Tax Act (Canada), Section IX ("Act"). If the Purchaser is registered under the Act for GST purposes, the Purchaser will provide to the Vendor prior to the Closing Date the GST registration number. Notwithstanding the foregoing, if the Purchaser is an entity registered for GST purposes and, on or before the Closing Date, the Purchaser provides the Vendor with a certificate as to the GST registered status of the Purchaser containing the Purchaser's GST registration number, the Purchaser will not be required to pay the GST to the Vendor but will be entitled to self-assess the GST and account for the same directly to the CRA. Such certificate must contain an indemnity from the Purchaser in favour of the Vendor with respect to the payment of GST by the Purchaser.

## 10. ADJUSTMENTS

All adjustments relating to the Property, including without limitation, property taxes, local improvement charges, utilities, payments under the Permitted Service Contracts and all other matters customarily the subject of adjustment on the sale of a similar commercial undertaking, shall be adjusted between the Vendor and the Purchaser as at the Closing Date so that the Vendor shall bear and pay all expenses and receive all income related to the Property prior to the Closing Date and the Purchaser shall bear and pay all expenses and receive all income related to the Property from and including the Closing Date.

## 11. PRE-CLOSING ACCESS AND WORK

The Purchaser and any contractors, trades and any other invitees of the Purchaser shall be permitted full access to each part the Property as soon as construction thereof has been completed to the extent that fit-out of such part can reasonably commence to allow the Purchaser to complete its fit out work in respect of the Property ("**Purchaser's Fit Out Work**"), provided that such work is subject to the coordination and priority work of the Vendor's general contractor in order to complete the Project.

## 12. RISK

- 12.1 The Property shall be at the risk of the Vendor until Closing of the sale and purchase herein contemplated and thereafter at the risk of the Purchaser.
- 12.2 If before Closing, the Vendor determines, acting reasonably, that the Property is Materially Damaged (as hereinafter defined), the Vendor shall immediately advise the Purchaser and the Purchaser may then, within 14 days after having received notice of such event, elect in writing:

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- (a) not to complete the purchase contemplated herein in which case the Deposit and all accrued interest thereon shall be returned to the Purchaser, this Agreement shall be terminated and each of the parties hereto shall have no further obligations to, nor rights against, the other in respect of this Agreement, except for any obligation of the Purchaser under Section 4.1 hereof; or
  - (b) to complete the purchase contemplated herein in which case the representations and warranties, if any, herein contained shall be limited to exclude the effect of such damage and the benefit of any existing insurance policies and all payments made pursuant thereto shall be assigned and shall be payable to the Purchaser less any sums applied to repair or replace such damage.
- 12.3 The Purchaser shall have 14 days after having received notice that the Property has been materially damaged, to make the election even if the event occurs within 14 days of the Closing Date, and if the Purchaser elects as permitted herein, the Closing Date shall thereafter be the Closing Date as otherwise provided in this Agreement or the Business Day next following the day which is 10 days after such election, whichever is the later.
- 12.4 “**Materially Damaged**” or any variation thereof means it will cost in excess of \$250,000 to repair the Property as determined by the Purchaser, acting reasonably.

### 13. ASSIGNMENT

The Purchaser shall not have the right to assign this Agreement without the prior written consent of the Vendor, provided that the Purchaser may assign this Agreement to an Affiliate of the Purchaser or a partnership in which the owners of the Purchaser have a direct or indirect controlling interest without the prior written consent of the Vendor provided that the Purchaser provides written notice of same at the time of assignment.

### 14. MISCELLANEOUS

- 14.1 A default by the Vendor under the Floor 345 Purchase Agreement shall be a default of the Vendor under this Agreement.
- 14.2 In this Agreement, “Affiliate” shall have the meaning given to it in the *Business Corporations Act* (British Columbia).
- 14.3 All dollar amounts referred to in this Agreement are Canadian dollars.
- 14.4 Any tender of documents or money may be made upon the party being tendered or upon its solicitors and money may be tendered by wire transfer.
- 14.5 Time shall be of the essence of this Agreement, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor and the Purchaser or by their respective solicitors who are hereby expressly appointed in this regard, but in such case time will remain of the essence.

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14.6 The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

14.7 Any notice to be given under this Agreement shall be in writing and shall be given if delivered or emailed to the parties as follows:

(a) To the Purchaser at:

NYX Capital Investments Corp.

400-1131A Leslie St.  
Toronto, ON, M3C 3L8

With a copy to:

McMillan LLP  
181 Bay Street, Suite 4400  
Toronto, Ontario  
M5J-2T3

Attention: Robert Shore  
Email: robert.shore@mcmillan.ca

(b) To the Vendor:

Gateway Development Limited Partnership

Attention: Tobi Reyes

Email: tobi@portliving.com

With a copy to:

Fasken Martineau DuMoulin LLP  
550 Burrard St., Suite 2900  
Vancouver, BC  
V6C 0A3

Attention: Sergio Custodio  
Email: scustodio@fasken.com

or to such other address or email as a party may advise the other by written notice hereunder. Any notice addressed and provided as aforesaid shall be deemed to have been given on the day of delivery or transmission of the email if a Business Day and if not a Business Day, then on the next Business Day.

14.8 This Agreement constitutes the entire agreement between the parties pertaining to the sale and purchase of the Property and supersedes all prior agreements, negotiations and discussions, whether oral or written, of the Vendor and the Purchaser and there are no

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agreements, covenants, representations or warranties, express, implied, statutory, collateral or otherwise, save as set forth or referred to herein.

- 14.9 Except for the representations and warranties set out in Section 5 which shall not survive the completion of the sale of the Property, none of the provisions of this Agreement will merge in the transfer of the Property and all of the provisions of this Agreement will survive the Closing Date and the completion of the transfer of the Property to the Purchaser.
- 14.10 Each of the parties shall bear their own costs and expenses incurred or to be incurred in negotiating and preparing this Agreement and in Closing and any agency fees.
- 14.11 If any term or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of this Agreement and the application of that term or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- 14.12 Each of the parties shall at all times hereafter execute and deliver, at the request of another party, all such further documents and instruments and shall do and perform all such further acts as may be reasonably required by that other party to give full effect to the intent and meaning of this Agreement.
- 14.13 Wherever the singular or masculine is used in this Agreement, the same shall be deemed to include references to the plural, feminine or body corporate or politic, as the context may require.
- 14.14 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein. The Vendor and the Purchaser agree to submit to the jurisdiction and the courts of the Province of British Columbia with respect to any dispute relating to this Agreement or the purchase and sale transaction contemplated herein and to appoint respective agents for the receipt and service of process in British Columbia.
- 14.15 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.
- 14.16 This Agreement may be executed by the parties and delivered by email and by counterpart and if so executed and delivered, this Agreement shall be for all purposes as effective as if the parties had delivered an executed original Agreement and all counterparts shall together constitute one and same Agreement.
- 14.17 Until completion of this Agreement, the Purchaser and the Vendor each agree to keep the terms, conditions and subject matter of this Agreement confidential, save to the extent required by their respective directors or to instruct their respective employees, brokers, advisers, attorneys, consultants and agents or as may be required by law or in order to enforce the respective rights of the Vendor and the Purchaser or to defend their respective interests under this Agreement and the parties agree to instruct their respective employees, brokers, advisers, attorneys, lenders, consultants and agents to



- 16 -

maintain any information regarding this Agreement and the terms, conditions and subject matter hereof in confidence. Unless and until Closing, and save as aforesaid, any information relating to the proposed transaction contemplated by this Agreement and such due diligence will remain strictly confidential unless disclosure is waived in writing by both the Vendor and the Purchaser. In the event that any information pertaining to this Agreement becomes publicly known through no fault of a party hereto, such party will no longer be subject to an obligation to maintain the disclosed information in confidence.

- 14.18 If the Vendor fails to complete the transaction contemplated in this Agreement through no fault of the Purchaser then in addition to any other remedy available to the Purchaser at law or in equity, the Purchaser will be entitled to seek the remedy of injunctive relief or specific performance in respect of the same.
- 14.19 If the date for any notice to be given, or any other date or deadline, herein falls on a date that is not a Business Day, then such date shall be deemed to fall on the next following Business Day.

*[remainder of page intentionally left blank; signature page follows]*

IN WITNESS WHEREOF the Purchaser and the Vendor have executed this Agreement effective as of the date first written above.

**GATEWAY DEVELOPMENT LIMITED  
PARTNERSHIP, BY ITS  
GENERAL PARTNER, PORT CAPITAL  
DEVELOPMENT (GATE) INC.**

By: \_\_\_\_\_  
Name: *Maximo Reyna*  
Title: *Director*

By: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**NYX CAPITAL INVESTMENTS CORP.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**IN WITNESS WHEREOF** the Purchaser and the Vendor have executed this Agreement effective as of the date first written above.

**GATEWAY DEVELOPMENT LIMITED  
PARTNERSHIP, BY ITS  
GENERAL PARTNER, PORT CAPITAL  
DEVELOPMENT (GATE) INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

**NYX CAPITAL INVESTMENTS CORP.**

By: Yashar Fatehi \_\_\_\_\_  
Name: Yashar Fatehi  
Title: Authorized signing officer

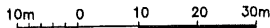
By: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation

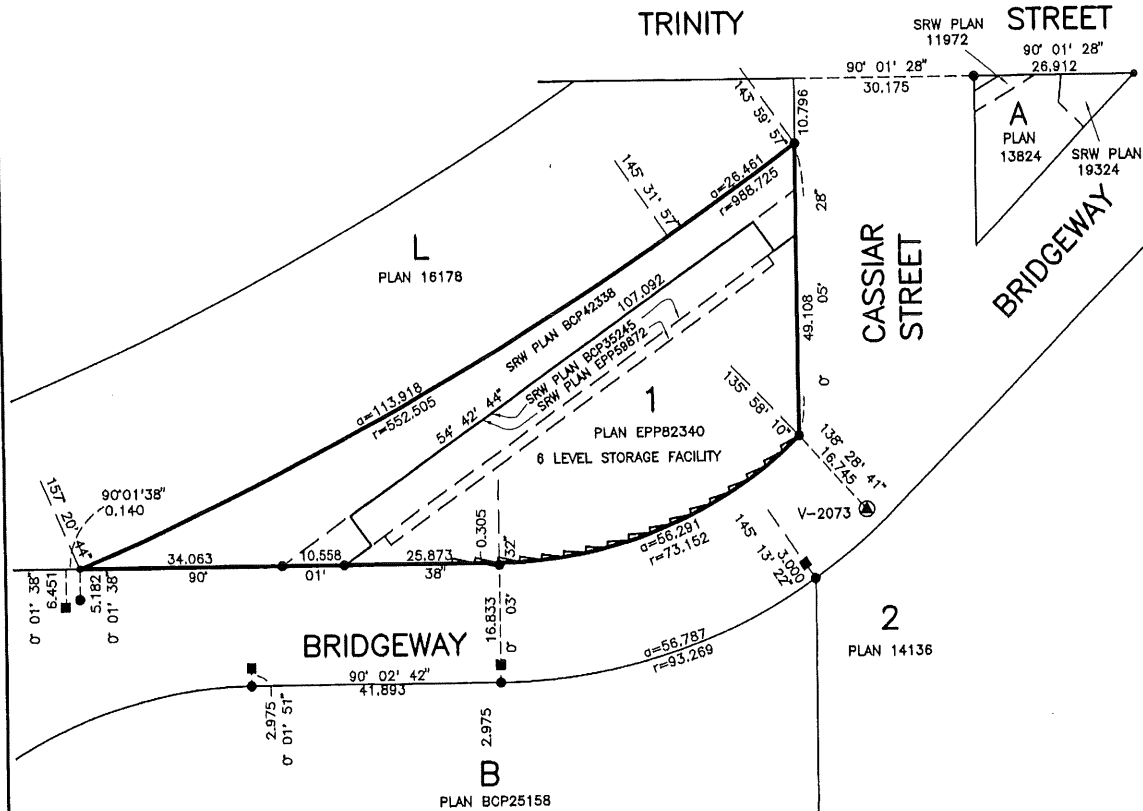
**SCHEDULE A**  
**Proposed Strata Plan**

**PRELIMINARY STRATA PLAN OF LOT 1,  
TOWN OF HASTINGS, PLAN EPP82340**  
BCGS 92G.025

**PLAN EPS**



THE INTENDED PLOT SIZE OF THIS PLAN IS 280mm IN WIDTH AND 432mm IN HEIGHT WHEN PLOTTED AT A SCALE 1:750 (B SIZE)



**LEGEND :**

INTEGRATED SURVEY AREA NO. 31,  
CITY OF VANCOUVER, NAD83 (CSRS) 4.0.0.BC.1.GVRD

GRID BEARINGS ARE DERIVED FROM OBSERVATIONS BETWEEN  
GEODETIC CONTROL MONUMENTS V-3695 AND V-2073.

THE UTM COORDINATES AND ESTIMATED HORIZONTAL POSITIONAL ACCURACY  
ACHIEVED ARE DERIVED FROM THE MASCOT PUBLISHED COORDINATES AND  
STANDARD DEVIATIONS FOR GEODETIC CONTROL MONUMENTS V-3695 AND V-2073.

THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL DISTANCES  
UNLESS OTHERWISE SPECIFIED. TO COMPUTE GRID DISTANCES,  
MULTIPLY GROUND-LEVEL DISTANCES BY THE AVERAGE COMBINED  
FACTOR OF 0.999005 WHICH HAS BEEN DERIVED FROM  
GEODETIC CONTROL MONUMENTS V-3695 AND V-2073.

ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF.

- DENOTES LEAD PLUG
- DENOTES STANDARD IRON POST
- SL DENOTES STRATA LOT
- LCP DENOTES LIMITED COMMON PROPERTY
- ⊙ DENOTES COMMON PROPERTY
- ⊕ DENOTES LIMITED COMMON PROPERTY FOR SL 1 (TYPICAL)
- SH DENOTES SHAFT
- #1 DENOTES PARKING STALL NUMBER (TYPICAL)

**UNDERHILL & UNDERHILL**  
PROFESSIONAL LAND SURVEYORS  
210A-3430 BRIGHTON AVENUE  
BURNABY, B.C. V5A 3H4  
TEL. (604) 732-3384

CIVIC ADDRESS: 3333 BRIDGEWAY STREET, VANCOUVER, B.C.

BALCONY AND ROOF DECK AREAS ARE DEFINED AS TO HEIGHT BY  
THE CENTRE OF THE FLOOR ABOVE OR ITS EXTENSIONS, OR WHERE  
THERE IS NO FLOOR ABOVE, BY THE AVERAGE HEIGHT OF A STRATA  
LOT WITHIN THE SAME BUILDING, UNLESS OTHERWISE NOTED.

THIS STRATA PLAN CONTAINS LIMITED COMMON PROPERTY  
ACCORDING TO SECTION 73 (a)(1) OF THE STRATA PROPERTY ACT.

- STRATA LOT BOUNDARIES ARE TO:
- OUTSIDE FACE OF EXTERIOR BUILDING WALLS
  - CENTERLINE OF PARTY WALLS WITH ADJACENT STRATA LOTS.
  - CENTRELINE OF STRATA LOTS AND COMMON PROPERTY.

THE BUILDINGS IN THIS STRATA PLAN HAVE NOT BEEN PREVIOUSLY OCCUPIED.

THE BUILDINGS SHOWN HEREON ARE WITHIN THE EXTERNAL BOUNDARIES OF  
LAND THAT IS THE SUBJECT OF THE STRATA PLAN.

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT.

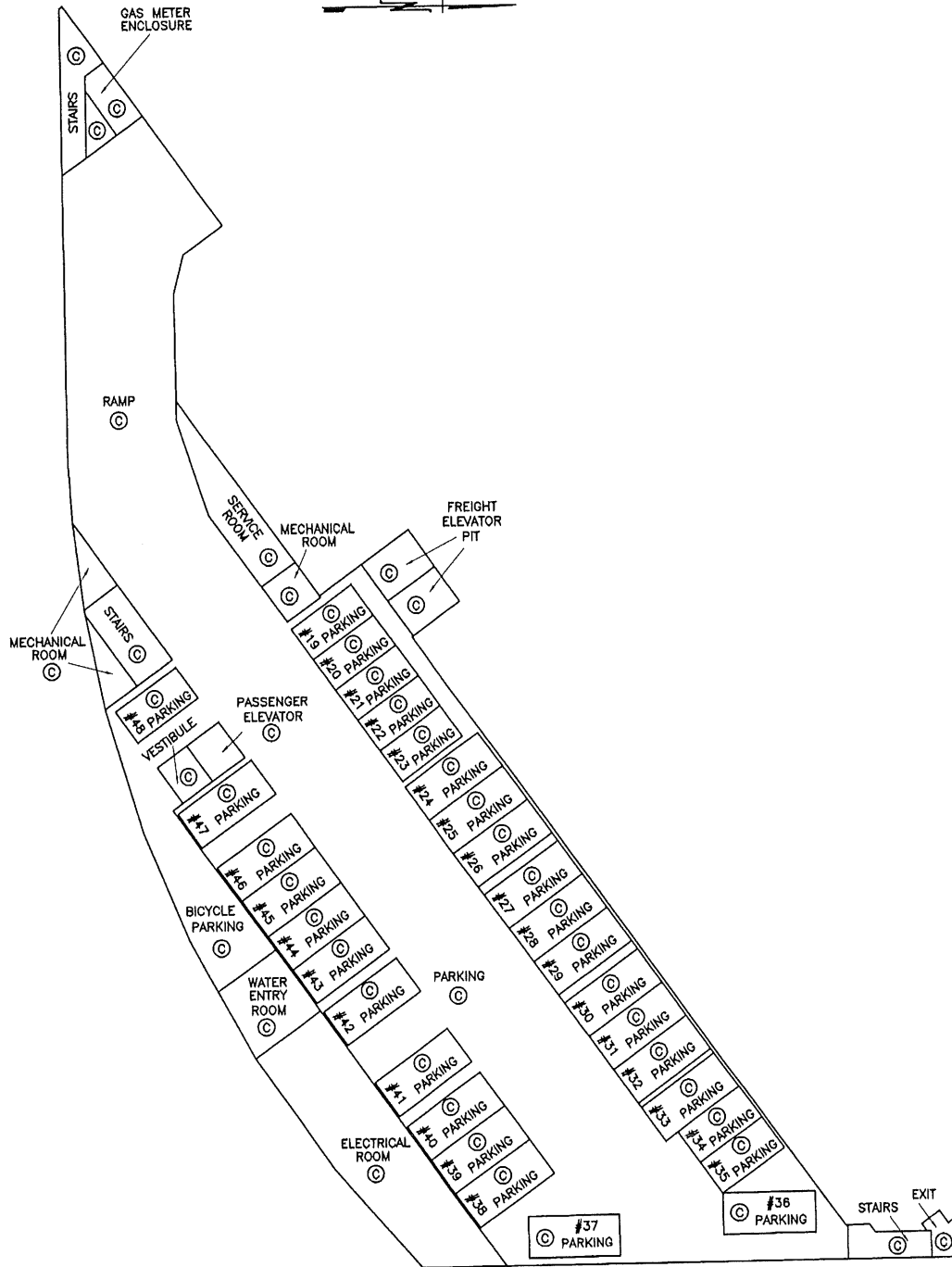
CHRISTOPHER S. CRYDERMAN (687), BCLS  
OCTOBER 8, 2018

# B1 BASEMENT PARKING

# PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS  
280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE)  
WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY  
STUART HOWARD ARCHITECTS DRAWINGS A-2.11 AND A-2.12 REVISION 7 DATED 2017-11-17

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TEL. (604) 732-3384

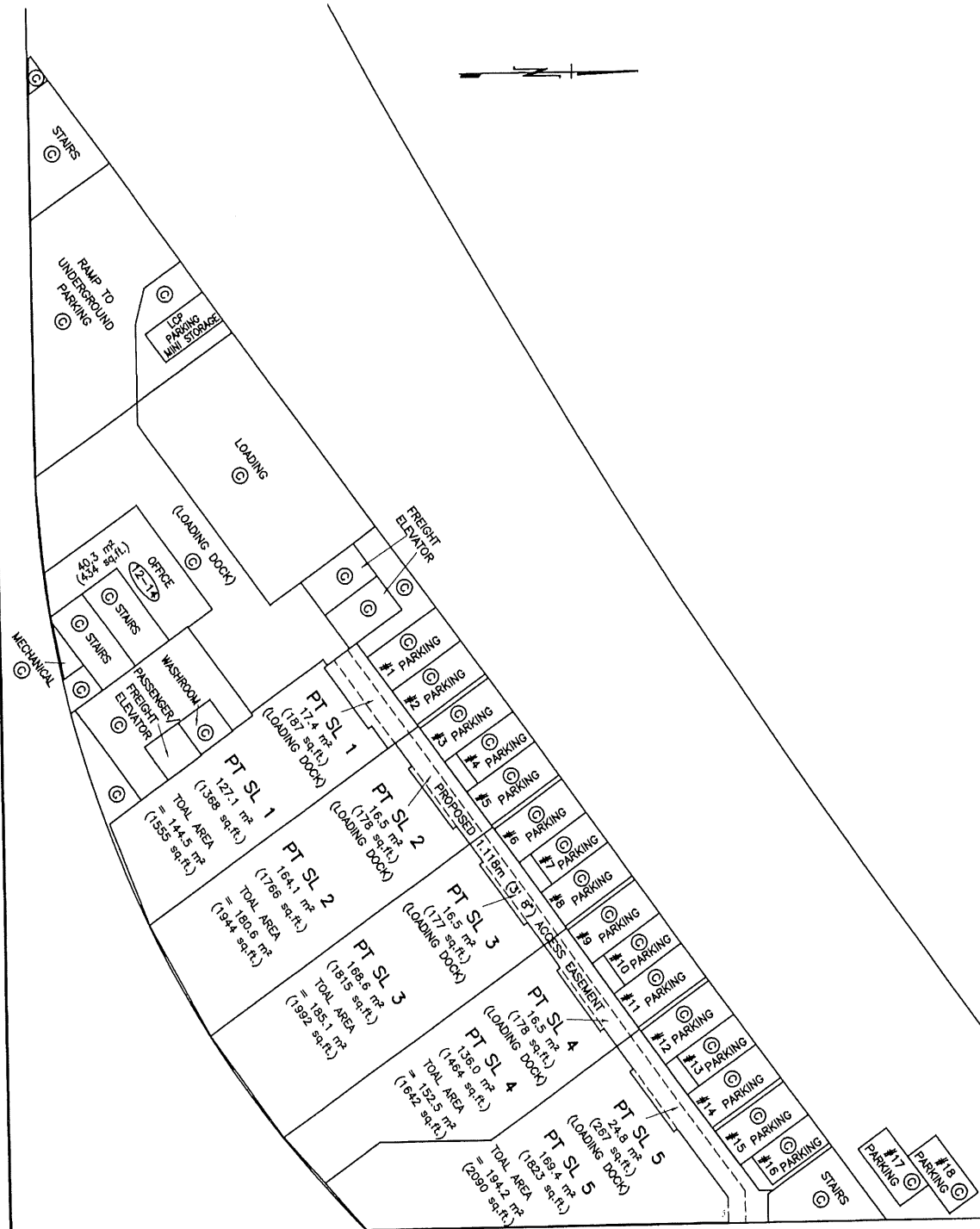
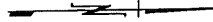
CHRISTOPHER S. CRYDERMAN (687), BCLS  
OCTOBER 8, 2018

# L1 MAIN FLOOR

# PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS  
 280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE)  
 WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY  
 STUART HOWARD ARCHITECTS DRAWINGS A-2.13 AND A-2.14 REVISION 7 DATED 2017-11-17

**UNDERHILL & UNDERHILL**  
 PROFESSIONAL LAND SURVEYORS  
 210A-3430 BRIGHTON AVENUE  
 BURNABY, B.C. V5A 3H4  
 TEL. (604) 732-3384

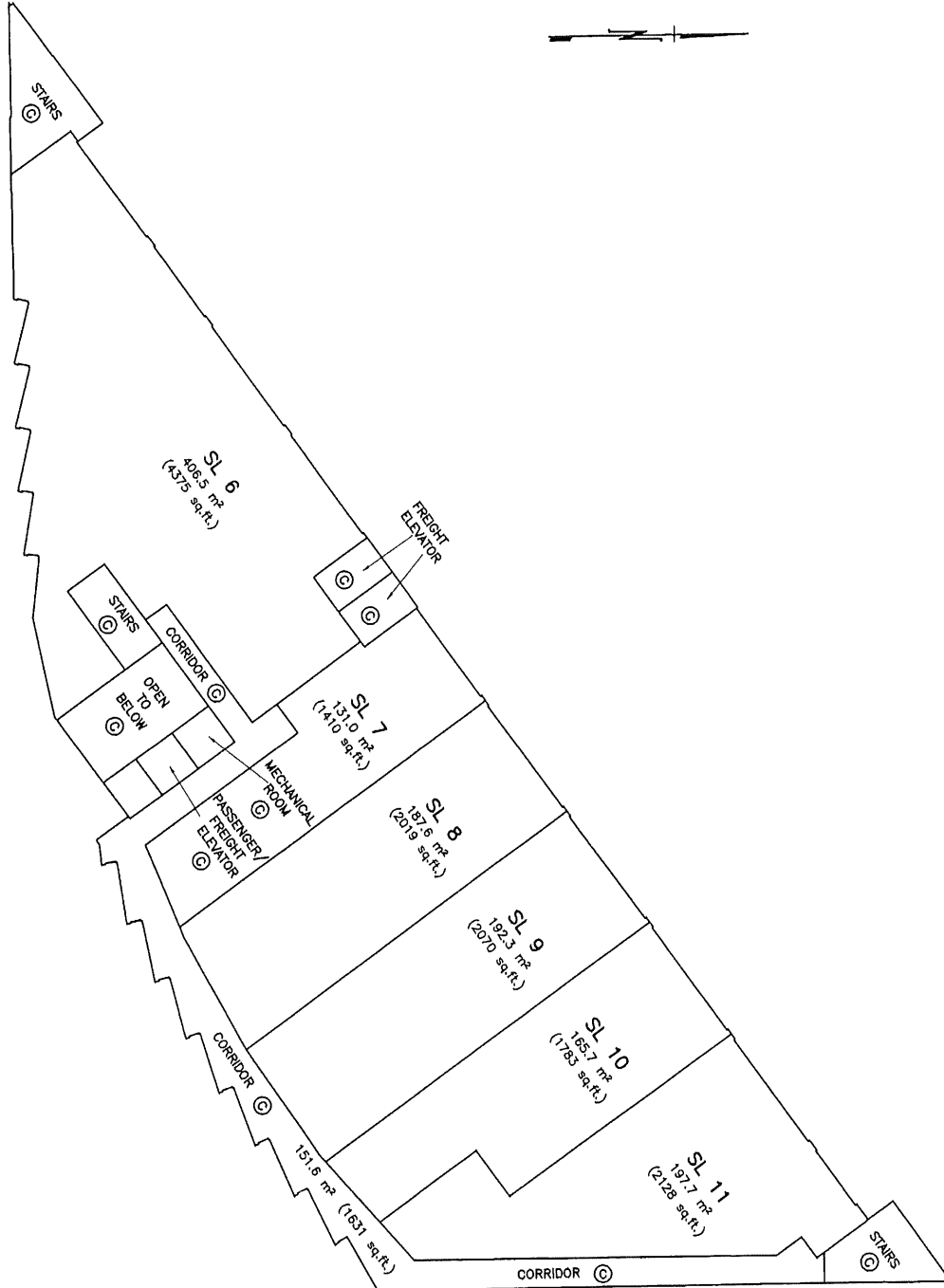
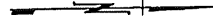
CHRISTOPHER S. CRYDERMAN (687), BCLS  
 OCTOBER 8, 2018

# L2 FLOOR

# PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS  
 280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE)  
 WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY  
 STUART HOWARD ARCHITECTS DRAWINGS A-2.15 AND A-2.16 REVISION 9 DATED 2018-08-11

**UNDERHILL & UNDERHILL**  
 PROFESSIONAL LAND SURVEYORS  
 210A-3430 BRIGHTON AVENUE  
 BURNABY, B.C. V5A 3H4  
 TEL. (604) 732-3384

CHRISTOPHER S. CRYDERMAN (687), BCLS  
 OCTOBER 8, 2018

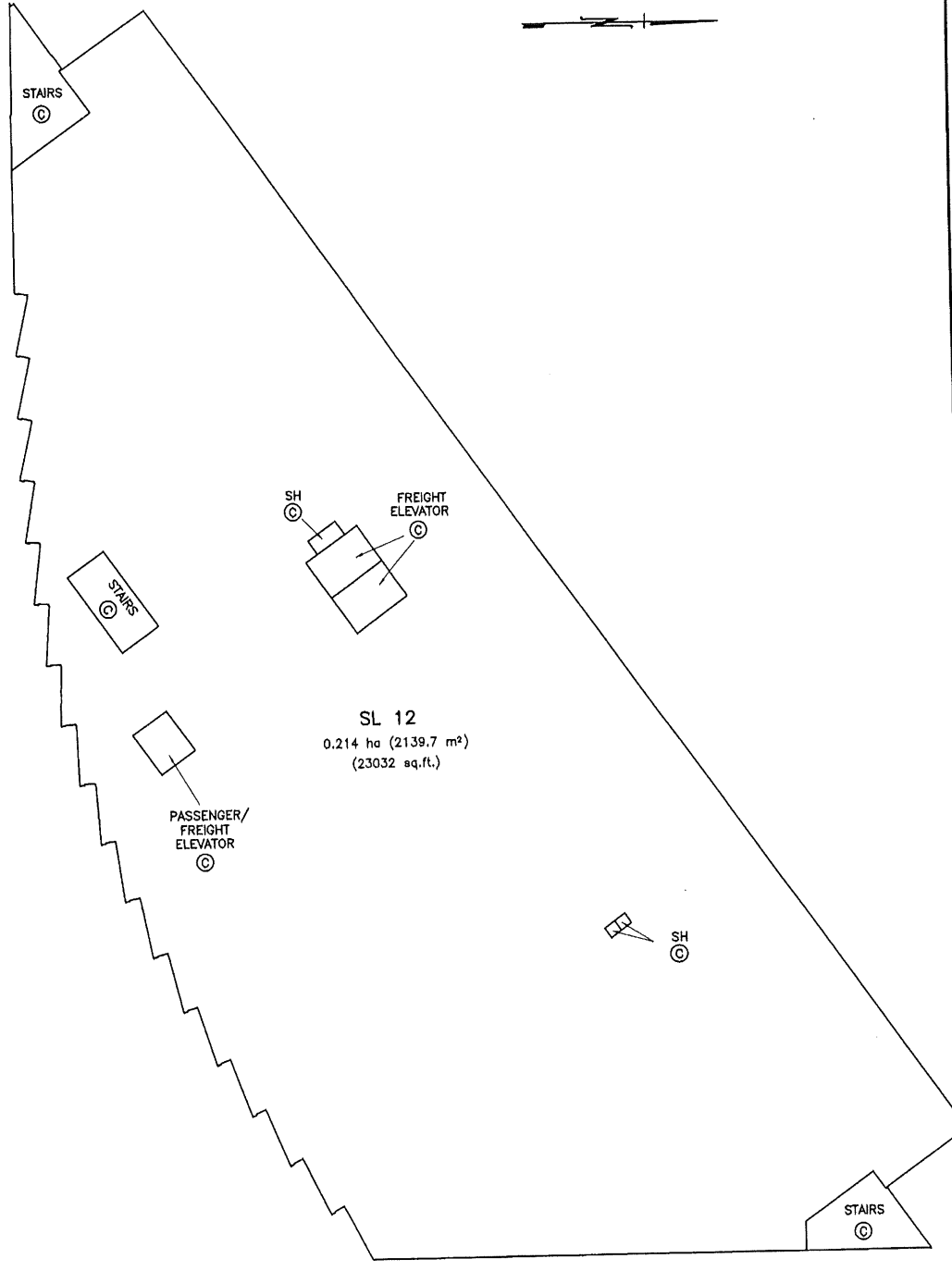


# L3 FLOOR

# PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS  
280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE)  
WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY  
STUART HOWARD ARCHITECTS DRAWINGS A-2.17 AND A-2.18 REVISION 7 DATED 2017-05-08

**UNDERHILL & UNDERHILL**  
PROFESSIONAL LAND SURVEYORS  
210A-3430 BRIGHTON AVENUE  
BURNABY, B.C. V5A 3H4  
TEL. (604) 732-3384

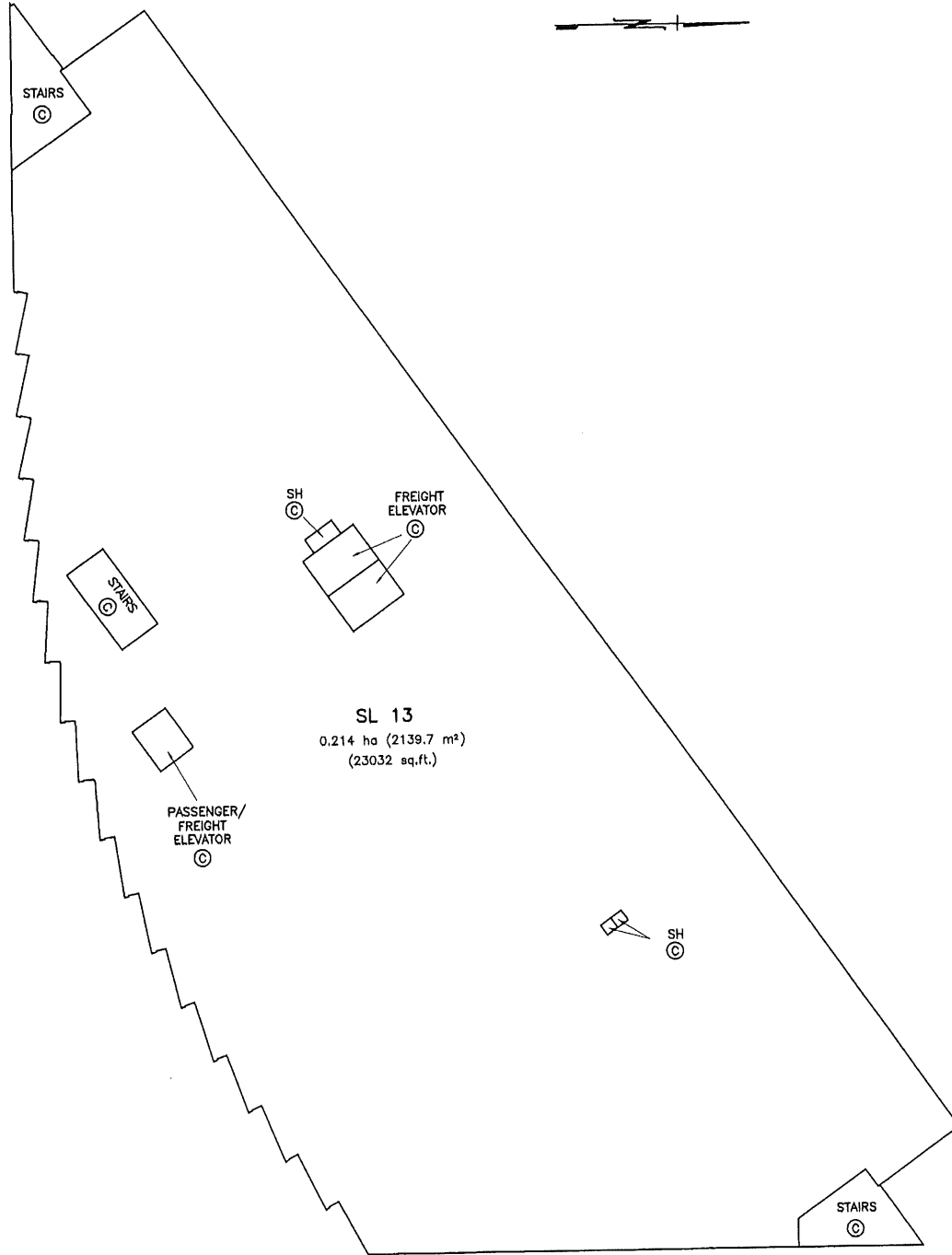
CHRISTOPHER S. CRYDERMAN (687), BCLS  
OCTOBER 8, 2018

# L4 FLOOR

# PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS  
 280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE)  
 WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY  
 STUART HOWARD ARCHITECTS DRAWINGS A-2.19 AND A-2.20 REVISION 9 DATED 2018-06-11

**UNDERHILL & UNDERHILL**  
 PROFESSIONAL LAND SURVEYORS  
 210A-3430 BRIGHTON AVENUE  
 BURNABY, B.C. V5A 3H4  
 TEL. (604) 732-3384

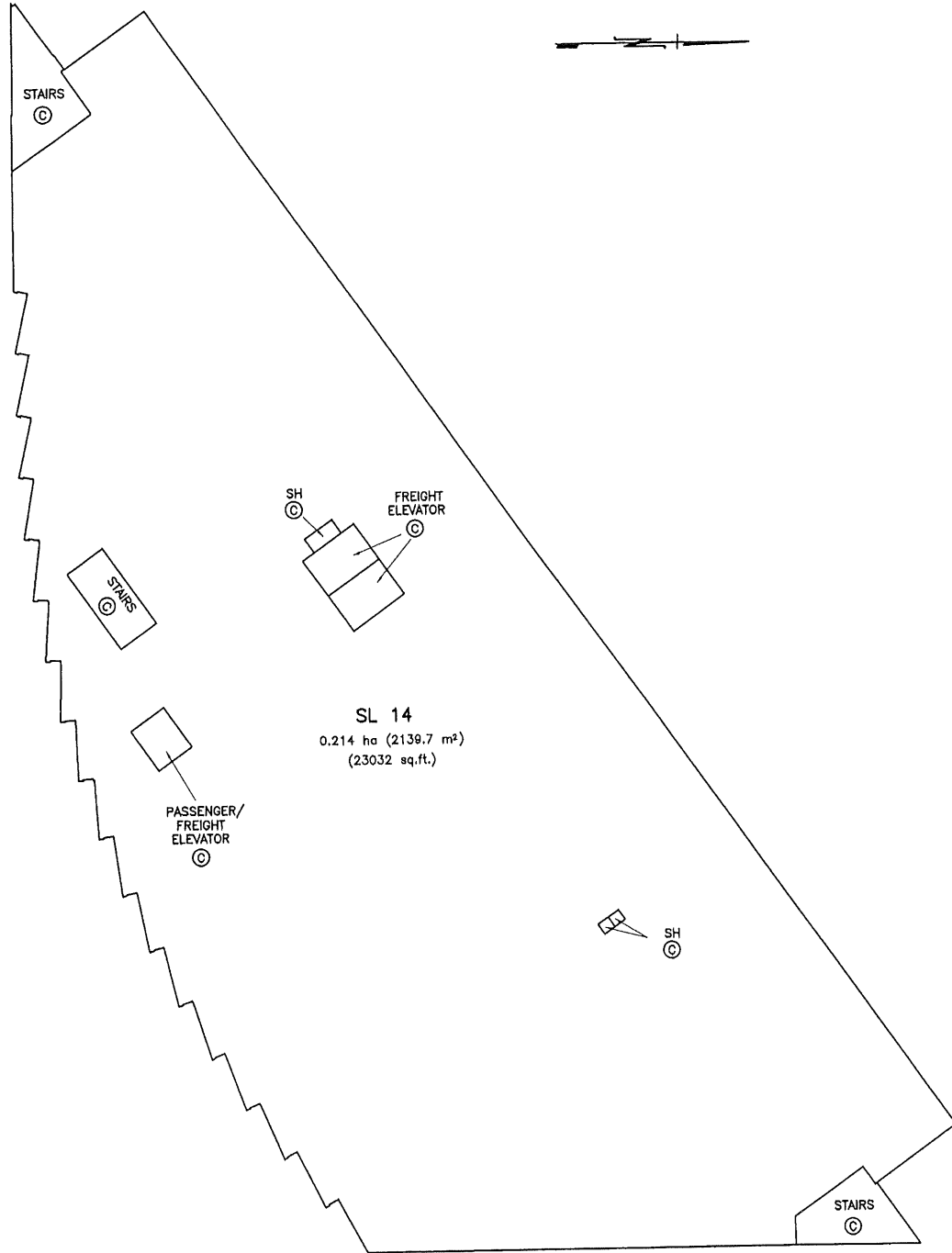
CHRISTOPHER S. CRYDERMAN (687), BCLS  
 OCTOBER 8, 2018

# L5 FLOOR

# PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS  
 280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE)  
 WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY  
 STUART HOWARD ARCHITECTS DRAWINGS A-2.21 AND A-2.22 REVISION 9 DATED 2018-06-11

**UNDERHILL & UNDERHILL**  
 PROFESSIONAL LAND SURVEYORS  
 210A-3430 BRIGHTON AVENUE  
 BURNABY, B.C. V5A 3H4  
 TEL. (604) 732-3384

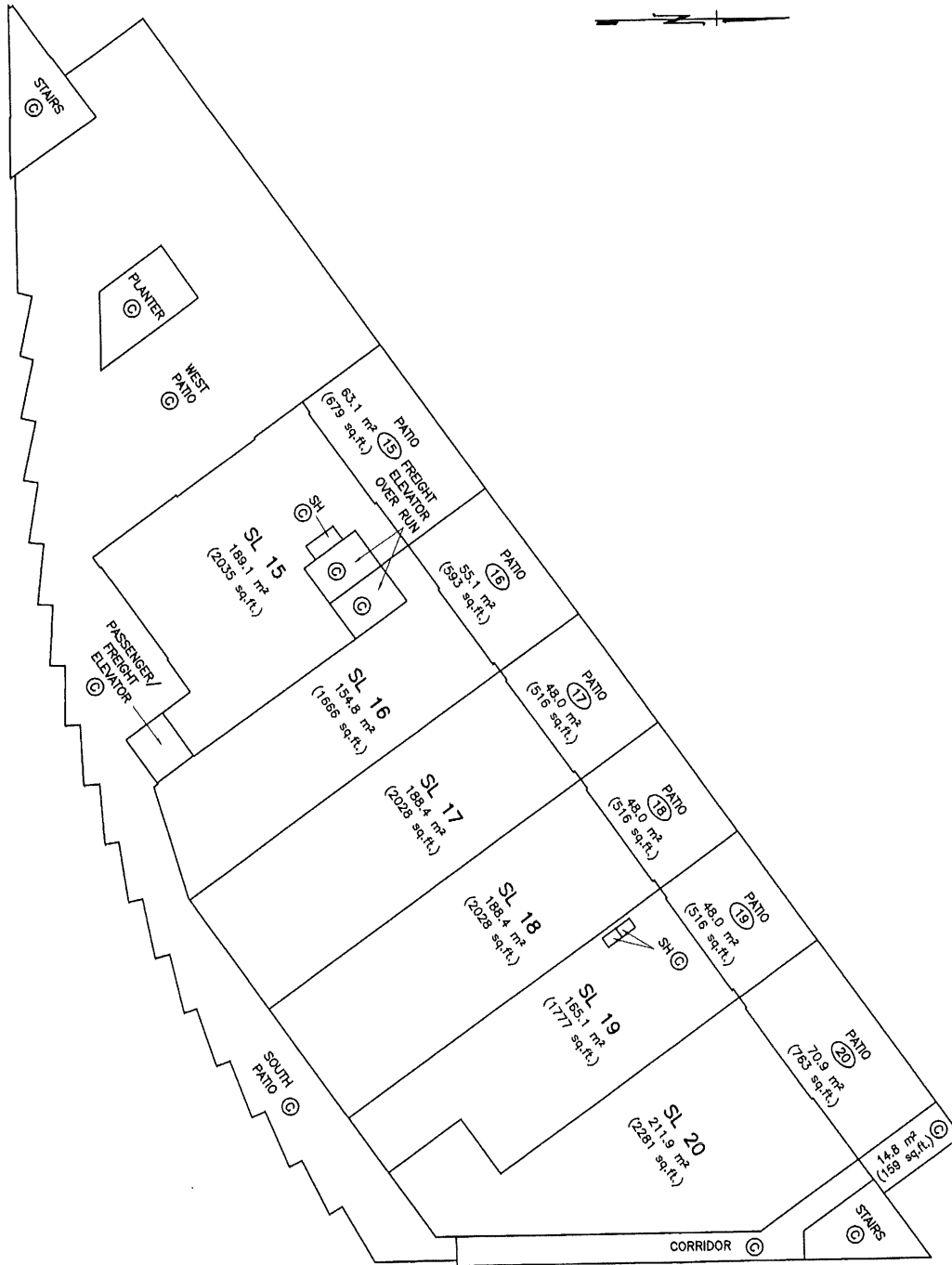
CHRISTOPHER S. CRYDERMAN (687), BCLS  
 OCTOBER 8, 2018

# L6 FLOOR

# PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS  
280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE)  
WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY  
STUART HOWARD ARCHITECTS DRAWINGS A-2.23 AND A-2.24 REVISION 9 DATED 2018-06-11

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PROFESSIONAL LAND SURVEYORS  
210A-3430 BRIGHTON AVENUE  
BURNABY, B.C. V5A 3H4  
TEL. (604) 732-3384

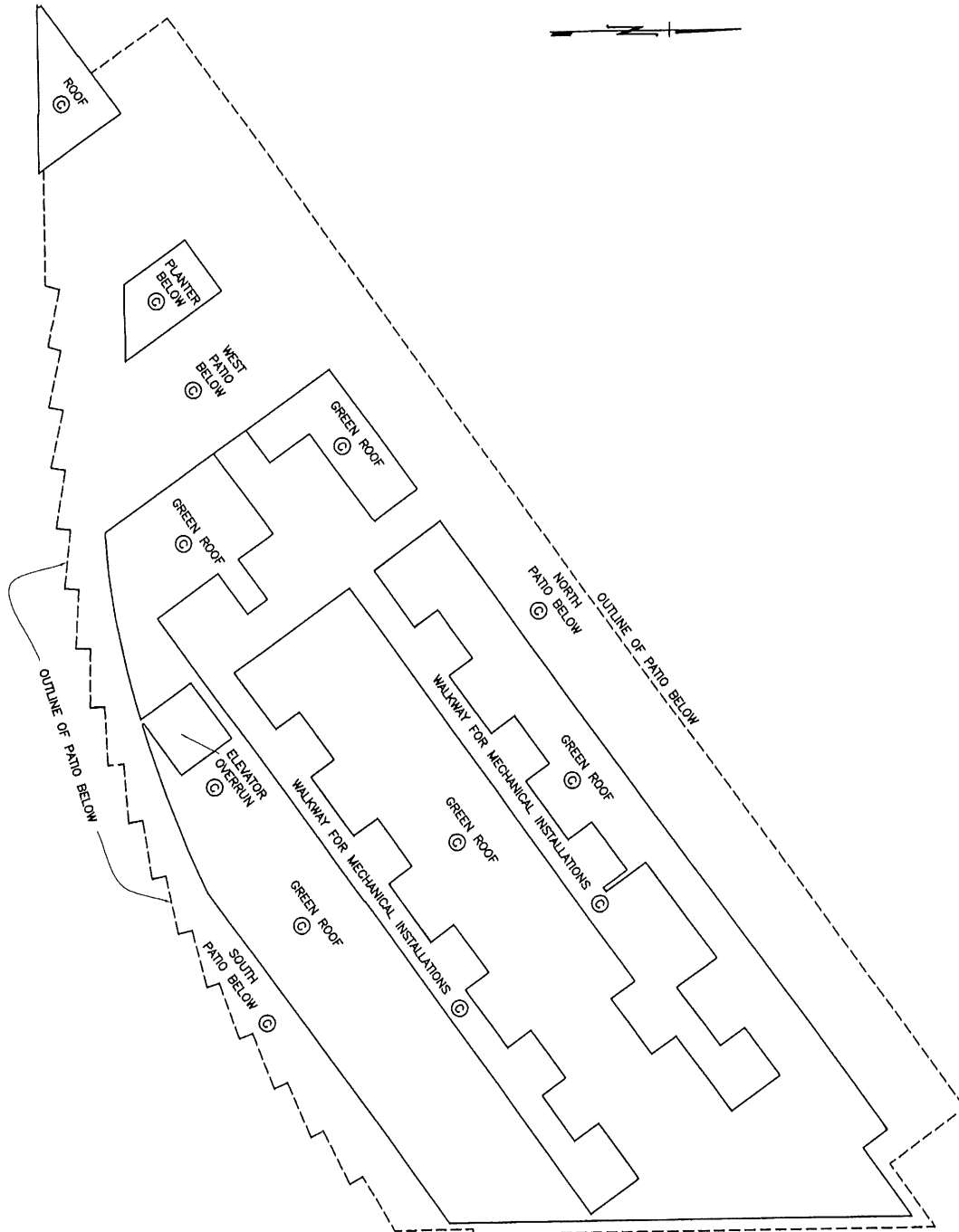
CHRISTOPHER S. CRYDERMAN (687), BCLS  
OCTOBER 8, 2018

ROOF

PLAN EPS



THE INTENDED PLOT SIZE OF THIS PLAN IS 280mm IN WIDTH AND 432mm IN HEIGHT (B SIZE) WHEN PLOTTED AT A SCALE 1:250



THIS FLOOR PLAN IS BASED ON ARCHITECTURAL PLANS PROVIDED BY STUART HOWARD ARCHITECTS DRAWINGS A-2.25 AND A-2.26 REVISION 11 DATED 2018-04-06

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210A-3430 BRIGHTON AVENUE  
BURNABY, B.C. V5A 3H4  
TEL. (604) 732-3384

CHRISTOPHER S. CRYDERMAN (687), BCLS  
OCTOBER 8, 2018

**SCHEDULE B**  
**PERMITTED ENCUMBRANCES**

- (a) Legal Notation: Notice of Interest, Builders Lien Act (S.3(2)), See CA3947748
- (b) Statutory Right of Way BB206901
- (c) Statutory Right of Way BB814032
- (d) Statutory Right of Way BB814033
- (e) Restrictive Covenant BB814034
- (f) Statutory Right of Way CA5047378
- (g) Covenant CA5047379
- (h) Covenant CA5865408
- (i) All subsisting reservations, limitations, provisos, conditions or exceptions contained in the original grants of the Property from the Crown
- (j) Parking Lease Encumbrance, if applicable
- (k) Such additional easements, rights of way, and covenants in favour of utility providers or the City of Vancouver required for the Project and its strata subdivision provided that same do not adversely impact the use of the Property for the Purchaser's intended use or otherwise.

**SCHEDULE "C"**  
**BASE BUILDING WORK**

## Design-Build Document

### A) HVAC Services:

- Design and Engineering

#### Parkade:

- Parkade ventilation, CO detection
- Elevator lobby pressurization
- General exhaust for utility and service rooms
- Substation room cooling system (AC)

#### Level 1, 2 Wholesale:

- Air conditioning and heating rough-in for both office and warehouse side
- Provisions for make-up air thru louvers
- Provisions for bathroom exhaust thru louvers
- Tenant distribution not included
- AC for Common areas (Elevator lobby and hallways) completely finished with distribution
- One finished bathroom exhaust for the lobby bathroom
- Finished AC and heating for the self-storage office c/w distribution
- Rough-in piping associated with ten AC units for future TI and one unit per commercial space of heat (Electric) for main floor (No heat pump)

#### Level 3, 4 and 5 Self Storage:

- Heating and ventilation via two separate units
- Complete air distribution
- Gas information metering for the storage space

#### Level 6 Office/ Wholesale:

- Air conditioning and heating rough-in via gas/electric roof top units
- Two RTU per unit (South and north zones)
- Provisions for bathroom exhaust thru roof jacks
- Tenant distribution not included
- Gas piping to all RTUs provided individual GAS Information metering for each commercial tenant space



## Design-Build Document

### B) Plumbing Services:

- Design and Engineering
- Storm drainage associated with green roof, high roof and low roof
- Storm drainage associated with Level 1 area drains within the building perimeter
- One suspended storm sump per COV requirement
- Perimeter drain tile (Foundation drainage)
- Concrete chambers and barrels associated with perimeter drainage, sumps, sump pumps, controls, sediment interceptors, H2O Loading sump covers
- Parkade drainage c/w 12" floor drains, 8" Ramp trench drain, loading dock drainage c/w 24" catch basin drains
- Oil Interceptors associated with parkade drainage
- Oil Interceptor associated with elevator pit drainage
- Sump Pumps, barrels, concrete sumps associated with parkade and elevator pit drainage
- Water entry station, c/w separate 4" Incoming water line
- Cold Water Riser from the mechanical room to Level 6 c/w 1 cap and valve on each floor for future distribution to future bathrooms
- Separate 2" irrigation riser for the green roof from the mechanical room to the roof c/w DCVA in the mechanical room and isolation valve on the roof and mechanical room
- All water lines in the parkade c/w heat tracing
- Provide one hose bib in the parkade, four hose bibs on level 1
- Sanitary piping and stacks from parkade to Level 6
- Sanitary venting and stacks from parkade to roof
- Cap off Sanitary Vents at each level for future bathrooms
- Cap off Sanitary connections (Below floor slab) at each level for future bathrooms
- One finished bathroom c/w 1 WC, one lavatory and one HWT on the main floor, three finished two pc bathrooms (One on each storage level) and one finished Janitor room on the main floor
- All insulation to Code requirement

## Design-Build Document

### C) Electrical Services:

- Design and Engineering
- 25KV, 2000 Amp service c/w indoor unit sub
- House panels to cover common area requirements
- Tel ducts to building, 1" future conduit to each unit
- Lighting, emergency lighting to meet basic requirements
- CRU mechanical rough-in only
- New fire alarm system
- Incoming Hydro and Telus ducts to property line
- Level 1 CRUs with conduits and no wire from main distribution
- Level 2 CRUs with wire to disconnect only
- Level 6 CRUs with wire to disconnect only
- Level 2 and 6 to 100 Amps final power requirement
- Keyless lights with LED bulbs for storage lockers - No occupancy sensors, Light ties to Security contractor (By Others)
- Common area LED lights
- Lighting for overhang area above drive isle and platform outside storage office
- Future JB in front of Level 1 CRUs
- Power for four signs on building
- Lights to trellis above planter and not rail lights on Level 6 patio
- Gate power to front of drive isle
- Entry Vestibule

**Design-Build Document**D) All other design and engineering works:

- Including but not limited to Architectural, Structural, Civil, Sprinkler, Landscape, Envelope, Acoustic, Environmental and Geotechnical are excluded (By Others).



Date: 2021-3-5 Revised 2021-4-30  
To: Port Living  
From: James Rae  
Ref: 3333 Gateway St., Vancouver  
Gateway 2021-4-30 Base Building LV Systems Rough-in

### 1. Base Building Access Control & Security Monitoring

- P1 Vehicle Gate [wireless only]
- P1 Elevator Lobby & P1 Bicycle Storage
- Front & Rear Entrances to Main Lobby
- Visitor Entry Panel at Front Entrance to Main Lobby
- Passenger Elevator Car Controls

1x lot, enclosures, copper and fiber cable, conduit, & etc.

1x connections for the monitoring of sumps and other mechanical devices

Electronics and electric door strikes excluded.

### 2. Base Building Infrastructure

- 1x 22U steel data rack cabinet, locking ventilated door
- Surge suppression and rack power distribution hardware
- Steel shelving and mounting hardware
- Fiber and copper riser
  - P1 elec rm to P1 Mech 01
  - P1 Mech 01 to security rack
  - Security to storage office [cabling only]
  - Storage office to 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> fl via security [cabling only]
  - Security to 2<sup>nd</sup> fl mech room [cabling only]
  - Security to 5<sup>th</sup> fl electrical room [cabling only]

### 3. ULC Fire Communicator & Monitoring

SOS will install the ULC communicator for the fire alarm and provide you with the requisite monitoring and ULC certificate for occupancy. There are several approved monitoring paths, but the cost is the same.



**4. Base Building HD Surveillance System**

Electronics are excluded.

Elevator contractor's travelling cable, etc. excluded.

Scope is based on ~30 cable drops for CCTV cameras and related devices.

**5. Storage/Freight Elevator Access Controls**

1x Elevator call keypad at the lower landing

1x Elevator call keypad at the upper landing

1x Elevator floor control keypad in car 1

1x Elevator floor control keypad in car 2

1x Eight-relay elevator control interface

2x In-car [ceiling] CCTV camera

**SCHEDULE "D"**

**CLASS C UNITS**

1. The Class C Units will be units of the limited partnership that will be formed for the single purpose of owning the Property, together with floors 3, 4 and 5 of the Building. In addition to the Class C Units, the limited partnership will issue Class A Units and Class B Units. The Class A Units will be issued to investors of the limited partnership in consideration of their cash contributions. The Class B Units will be issued to a party affiliated with the Purchaser and will entitle the holder thereof to a carried interest in the profits of the limited partnership as described below.
2. Each Class A Unit will be issued in respect of a capital contribution of \$1,000, and the number of Class A Units issued by the limited partnership will therefore depend entirely on the capital contributed by the Class A Unit investors.
3. As specified in Section 3.2(b) of the Purchase Agreement to which this Schedule "D" is attached, the Vendor will be issued 1,900 Class C Units as a component of the consideration satisfying the Purchase Price.
4. The "**Pro-Rata Share**" of the owner of the Class C Units will be defined in the limited partnership agreement as a percentage calculated by dividing 1,900 the sum of 1,900 and the total number of Class A Units issued at the time of calculation.
5. Distributions of cash from the limited partnership will be structured such that all cash will be distributed in the following priority with each level receiving the specified amount to the extent that funds in that amount are available for distribution:
  - a) To the owners of Class A Units, all of their capital invested in respect of Class A Units (their "**Class A Capital**").
  - b) To the owners of Class A Units, funds in an amount equal to a 10% internal rate of return on their Class A Capital.
  - c) To the owner of the Class B Units, 30% of all remaining cash as a carried interest.
  - d) The balance of all remaining cash shall be distributed as follows:
    - i. To the owners of the Class A Units, funds in an amount equal to, when added to all amounts received by them as described above, a 17% internal rate of return on their Class A Capital.
    - ii. To the owner of the Class C Units, \$1,900,000.
    - iii. To the owner of the Class C Units, funds in an amount equal to a 17% internal rate of return on \$1,900,000.
    - iv. The balance of such remaining cash to the owners of the Class A Units and the Class C Units based on their respective Pro-Rata Shares.
6. All other terms of the limited partnership agreement will be determined by the Purchaser in its sole and unfettered discretion.