

COURT FILE NUMBER 1603 20319  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE EDMONTON



IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, RSC 1985, c C-  
36, as amended

AND IN THE MATTER OF THE PARKLAND  
AIRPORT DEVELOPMENT CORPORATION

DOCUMENT **APPROVAL AND VESTING ORDER – PURCHASE  
BY 2155734 ALBERTA LTD.**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Darren Bieganeck, QC  
Barrister & Solicitor  
Phone: 780.441.4386  
Fax: 780.428.9683  
File #204-201086

**DUNCAN CRAIG LLP**  
LAWYERS MEDIATORS  
2800 Scotia Place  
10060 Jasper Avenue  
Edmonton, Alberta Canada T5J 3V9

**DATE ON WHICH ORDER WAS PRONOUNCED: April 17, 2019**

**LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta**

**NAME OF JUSTICE WHO MADE THIS ORDER: Justice S.D. Hillier**

**UPON THE APPLICATION** of 2155734 Alberta Ltd. (the "Purchaser"), the first mortgagee over the lands owned by Parkland Airport Development Corporation ("PADC" or the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an offer to purchase (the "Offer") between 215 and PADC dated as of April 12, 2019 and appended as Exhibit "A" to the Affidavit of Steve Froese sworn April 5, 2019 (the "Offer"); and vesting in the Purchaser, the Debtor's right, title and interest in and to the assets described in the Offer (the "Purchased Assets"); **AND UPON** noting that part of the purchase price tendered by the Purchaser for the Purchased Assets is the assumption of a mortgage registered against those lands described in Schedule "B" to this Order as registration number 132 399 557 in favour of Parkland Aerospace Corp. (the "PAC Mortgage"), and the assumption of a mortgage registered against those lands described in Schedule "B" to this Order as registration number 142 018 344 in favour of 1827101 Alberta Ltd. (the "182 Mortgage");

**AND UPON HAVING READ** the Application materials and the Monitor's Twelfth Report dated April 12, 2019; **AND UPON HEARING** the submissions of counsel for 215, counsel for PADC, counsel for

the Monitor, counsel for Weinrich Contracting Ltd. ("Weinrich") and counsel for Morgan Construction and Environmental Ltd. ("Morgan"); **AND UPON** being satisfied that there is proper service of notice of this application;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

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

**APPROVAL OF TRANSACTION**

2. The Transaction is hereby approved and execution of the Offer ("Sale Agreement") to be entered by PADC is hereby authorized and approved, with such minor amendments as PADC, in consultation with the Monitor, may deem necessary or appropriate and as may be agreed to by 215. PADC is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser.

**VESTING OF PROPERTY**

3. Upon delivery of a Monitor's certificate to the Purchaser substantially in the form set out in **Schedule "A"** hereto (the "Monitor's Closing Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets [listed in **Schedule "B"** hereto] shall vest absolutely in the name of the Purchaser, free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgments, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "Claims") including, without limiting the generality of the foregoing:
  - (a) any encumbrances or charges created by the Initial Order, save and except the Interim Lenders Charge which obligations thereunder are being assumed;
  - (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;

- (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta) and any Certificates of Lis Pendens in relation thereto; and
- (d) those Claims listed in Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in Schedule "D" (collectively, "Permitted Encumbrances"))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets

4. Upon delivery of the Monitor's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "Governmental Authorities") are hereby authorized, requested and directed to accept delivery of such Monitor's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

- (a) Cancel the existing Certificates of Title for those lands and premises listed in Schedule "B" hereto (the "Lands");
- (b) Issue new Certificates of Title for the Lands in the name of the Purchaser, 2155734 Alberta Ltd., free and clear of the encumbrances listed in Schedule "C" to this Order, each of which shall be discharged and expunged (and in the case of any builders' liens, all Certificates of Lis Pendens in relation thereto, including any claims which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands unless expressly authorized herein);
- (c) The new Certificates of Title shall remain subject to: the Permitted Encumbrance listed in Schedule "D" to the Order together with such new mortgages, caveats, utilizing rights of ways, easements, or other instruments as are listed in Schedule "D", and shall further be subject to a new first mortgage in favour of 541461 Alberta Ltd. in the form attached hereto as Schedule "E" in substitution of the Interim Lender's Charge (the "Interim Lender's Mortgage"). It is hereby declared and ordered that:
  - (i) The Interim Lender's Mortgage shall be registered as a first charge in priority to the mortgages of the 182 Mortgage and the PAC Mortgage;

- (ii) Each of the 182 Mortgage and the PAC Mortgage are postponed to the Interim Lender's Mortgage; and
  - (iii) This order shall be registered on each of the Certificates of Title to the Lands for the purpose of preserving the postponement noted in the foregoing paragraph.
- (d) The Registrar of the Alberta Personal Property Registry (the "PPR Registrar") shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtor in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.
5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Monitor's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
  6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by PADC of the Sale Agreement.
  7. Upon delivery of the Monitor's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Monitor in its capacity as Monitor of the Debtor and not in its personal capacity.
  8. For the purposes of determining the nature and priority of Claims, net cash proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Monitor) shall stand in the place and stead of the Purchased Assets from and after delivery of the Monitor's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net cash proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the

possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Monitor shall not make any distributions to creditors of net cash proceeds from sale of the Purchased Assets without further order of this Court, provided however the Monitor may apply any part of such net cash proceeds to repay any amounts needed to discharge obligations under the Administration Charge as outlined in the Initial Order granted in these proceedings on November 29, 2016 (the "Initial Order").

9. Except as expressly provided for in the Sale Agreement or by section 5 of the *Alberta Employment Standards Code*, the Purchaser shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.
10. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
11. The Purchaser shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Monitor or the Debtor.
13. The Monitor is directed to file with the Court a copy of the Monitor's Closing Certificate forthwith after delivery thereof to the Purchaser.
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Debtor is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to

use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtor was entitled.

#### **MISCELLANEOUS MATTERS**

15. Notwithstanding:
- (a) the pendency of these proceedings and any declaration of insolvency made herein;
  - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
  - (c) any assignment in bankruptcy made in respect of the Debtor; and
  - (d) the provisions of any federal or provincial statute:
- the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
16. Notwithstanding the terms of this Order respecting the free and clear transfer and vesting of interest in the Purchased Assets free and clear of Claims, all claims of creditors against PADC or claims against others are specifically preserved and nothing herein contained shall be considered prejudicial to the interests of those creditors or those claims or as affecting or prejudicing any claims affecting any creditors ability to claim priority to payment against any other creditor.
17. No legal claims that have been postponed or are reasonably affected by these CCAA proceedings shall be detrimentally affected by the failure to take timely steps in any proceedings unless a Court of competent jurisdiction determines that the alleged prejudice was both foreseeable and avoidable having regard to all of the circumstances.
18. The Purchaser shall provide to the service list as soon as possible copies of the Assumption Agreements, including payment schedules if any, respecting the 182 Mortgage and the PAC Mortgage it is assuming.
19. The Debtor, the Purchaser and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

20. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Monitor, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.
21. Service of this Order shall be deemed good and sufficient by:
- (a) Serving the same on:
    - (i) the persons listed on the service list created in these proceedings;
    - (ii) any other person served with notice of the application for this Order;
    - (iii) any other parties attending or represented at the application for this Order;
    - (iv) the Purchaser or the Purchaser's solicitors; and
  - (b) Posting a copy of this Order on the Monitor's website at: [www.insolvency.deloitte.ca](http://www.insolvency.deloitte.ca) and service on any other person is hereby dispensed with.
22. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.
23. Notwithstanding the provisions of paragraph 7 of this Order, registration of this Order at the Land Titles Office is stayed for a period of 10 business days from the date of service of same. Thereafter it should be fully effective however, any further stay in respect of registration of this Order at the Land Titles Office shall be considered by a single Justice of the Court of Appeal who may consider same in conjunction with any application for a leave to appeal which may be brought.

24. This Order may be approved in counterpart and need only be approved by counsel for each of the Purchaser, Monitor, Weinrich, and Morgan.



Justice of the Court of Queen's Bench of Alberta

**APPROVED BY:**

DUNCAN CRAIG LLP

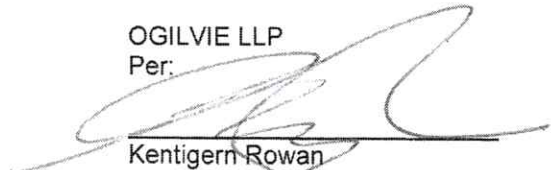
Per:



\_\_\_\_\_  
Darren R. Bieganski, QC  
Counsel for 2155734 Alberta Ltd.

OGILVIE LLP

Per:



\_\_\_\_\_  
Kentigern Rowan  
Counsel for Deloitte Restructuring Inc.

BRYAN & COMPANY LLP

Per:

\_\_\_\_\_  
Kevin Chapotelle  
Counsel for Weinrich Contracting Ltd.

DLA PIPER (CANADA) LLP

Per:

\_\_\_\_\_  
Susy Trace  
Counsel for Morgan Construction  
And Environmental Ltd.



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Justice of the Court of Queen's Bench of Alberta

**APPROVED BY:**

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Per:


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Darren R. Bieganek, QC  
Counsel for 2155734 Alberta Ltd.

BRYAN & COMPANY LLP

Per:

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Per:

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Counsel for 2155734 Alberta Ltd.

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Per:

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Kevin Chapotelle  
Counsel for Weinrich Contracting Ltd.

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Per:

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Kentigern Rowan  
Counsel for Deloitte Restructuring Inc.

DLA PIPER (CANADA) LLP  
Per:

---

Susy Trace  
Counsel for Morgan Construction  
And Environmental Ltd.

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

COURT FILE NUMBER            1603 20319

COURT                            COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE                EDMONTON

Clerk's Stamp
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IN THE MATTER OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, RSC  
 1985, c. C-36 as amended

AND IN THE MATTER OF THE PARKLAND  
 AIRPORT DEVELOPMENT CORPORATION

DOCUMENT                        **MONITOR'S CERTIFICATE**

ADDRESS FOR SERVICE AND  
 CONTACT INFORMATION OF  
 PARTY                            FILING                            THIS  
 DOCUMENT

DARREN BIEGANEK  
 Barrister & Solicitor  
 Phone: 780.441.4386  
 Fax: 780.428.9683  
 File #204-201086

**DUNCAN CRAIG LLP**  
 LAWYERS & MEDIATORS  
 2800 Scotia Place  
 10060 Jasper Avenue  
 Edmonton, AB T5J 3V9

**RECITALS**

- A. Pursuant to an Order of the Honourable Justice Burrows of the Court of Queen's Bench of Alberta, Judicial District of Edmonton (the "Court") dated November 29, 2016, Deloitte Restructuring Inc. was appointed as the monitor (the "Monitor") of Parkland Airport Development Corporation (the "Debtor").
- B. Pursuant to an Order of the Court dated April 17, 2019, the Court approved the proposed agreement of purchase and sale (the "Sale Agreement") between the Debtor and 2155734 Alberta Ltd. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Debtor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

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

**THE MONITOR CERTIFIES** the following:

1. The Purchaser has paid and the Monitor has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at \_\_\_\_\_ on \_\_\_\_\_, 2019.

**Deloitte Restructuring Inc., in its  
capacity as Monitor of Debtor, and  
not in its personal capacity.**

**Per:** \_\_\_\_\_

**Name:**

**Title:**

## SCHEDULE B

### Purchased Assets

#### LANDS

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EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 27.16 HECTARES (67.11 ACRES) MORE OR LESS

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EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 45.785 HECTARES (113.14 ACRES) MORE OR LESS

**EQUIPMENT & PERSONAL PROPERTY**

Asset List is attached on the following page.

**SCHEDULE C**

**Encumbrances to be Discharged**

<u>Registration Number</u>	<u>Claimant</u>	<u>Type of Encumbrance</u>
142 345 595	Lafarge Canada Inc.	Builders' Lien
142 365 168	Morgan Construction and Environment Ltd.	Builders' Lien
142 433 498	Urban Systems Ltd.	Builders' Lien
152 046 277	Stoneco Aggregates Inc.	Writ
152 389 735	Jay Sidhu Transport Ltd.	Builders' Lien
152 390 919	1843622 Alberta Ltd.	Builders' Lien
152 397 323	Stewart Oilfield Services Ltd.	Builders' Lien
162 000 850	Single Source Asphalt Paving and Concrete	Builders' Lien
162 016 338	Petrowest Services Rentals LP	Builders' Lien
162 274 499	Max Fuel Distributors Ltd.	Writ
142 206 671	SMR Equipment Corp.	Builders' Lien
142 365 169	Morgan Construction and Environmental Ltd.	Builders' Lien
142 333 963	Weinrich Contracting Ltd.	Caveat – Agreement Charging Land
142 310 278	Weinrich Contracting Ltd.	Attachment Order
142 130 994	CPL6 Holdings Ltd.	Encumbrance
162 005 406	Brooklyn Whyte & Co. Ltd.	Caveat re: Purchaser's Interest
142 184 558	Parkland Airport Development	Caveat
992 028 749	Cedar Creek Energy Ltd.	Caveat re: Surface Lease Under 20 Acres
152 332 787	Brooklyn Whyte & Co. Ltd.	Caveat – Agreement Charging Land

162 005 407	Brooklyn Whyte & Co. Ltd.	Caveat re: Purchaser's Interest
162 194 980	Roseiko Enterprises Inc.	Caveat re: Amending Agreement

**SCHEDULE D**

**Permitted Encumbrances**

<u>Registration Number</u>	<u>Claimant</u>	<u>Type of Encumbrance</u>
132 399 557	Parkland Aerospace Corp.	Mortgage
142 018 344	1827101 Alberta Ltd.	Mortgage
Other Caveats, Easements, and Restrictive Covenants presently existing on title to the Lands and not otherwise noted specifically in Schedule "C"		



**SCHEDULE E**

**Interim Lender's Mortgage**

**“THE LAND TITLES ACT”**

**MORTGAGE**

**2155734 ALBERTA LTD. c/o Duncan and Craig LLP 2800 Scotia Place, 10060 Japer Avenue, Edmonton, Alberta T5J 3V9** (herein called the “**Mortgagor**”), being registered owner of an estate in fee simple in possession subject to registered encumbrances, liens and interests, if any, in all that piece of land situate in the Province of Alberta, described as follows:

All those lands set forth in Schedule “A” attached hereto.

(which together with all buildings, fixtures and improvements now or hereafter erected, installed or located thereon and all appurtenances thereto is herein called the “**Land**”), IN CONSIDERATION of the sum of **One Million Two Hundred and Twenty Three Thousand Eight Hundred and Twenty Dollars and Twelve Cents (\$1,223,820.12)** in lawful money of Canada, (herein called the “**Principal Sum**”), lent to the Mortgagor as of June 15<sup>th</sup>, 2019 by **541461 Alberta Ltd.** having an address at **401, 316 Windermere Road NW, Edmonton, Alberta T6W 2Z8** (herein called the “**Mortgagee**”), the receipt of which sum the Mortgagor hereby acknowledges, COVENANTS WITH THE MORTGAGEE THAT:

1. **Covenant to Pay** - The Mortgagor shall pay to the Mortgagee at the above address or at such other place as the Mortgagee may designate, in lawful money of Canada, the Principal Sum together with interest thereon or on so much thereof as shall from time to time remain unpaid, at the rate of **Fifteen per cent (15.0%) per annum** calculated monthly and compounded semi-annually and not in advance, as well after as before maturity, both before and after default and judgment, until paid. The Principal Sum together with interest and all other monies hereby secured, shall be due and payable in any event on the **15<sup>th</sup> day of December, 2019**.

In the case of default by the Mortgagor, the Mortgagee may apply any payments received during the period of default in whatever order it may elect as between taxes, interest, repairs, insurance premiums, principal or other advances made on behalf of the Mortgagor.

2. **Overdue Interest** - All interest on becoming overdue shall be treated (as to payment of interest thereon) as principal, and shall bear compound interest at the rate herein prescribed, as well after as before maturity, to be computed and paid monthly, and all interest and compound interest shall be a charge on the Land. If any of the money hereby secured is not paid when due, the Mortgagor shall, so long as any part thereof remains unpaid, pay interest at the rate herein prescribed from day to day.
3. **Payments Generally** - All payments by the Mortgagor to the Mortgagee of whatsoever nature required or contemplated by this Mortgage shall be made, if the Mortgagee so requests, by way a series of cheques, post-dated to the respective due date of such payments, which the Mortgagor shall provide to the Mortgagee on demand, or by way of an automatic debiting system by which payments are deducted from the Mortgagor’s

bank account and credited to the Mortgagee, all at the Mortgagor's cost and without prejudice to any other right or remedy of the Mortgagee.

4. **Insurance** - The Mortgagor shall:

- (i) forthwith insure and keep insured all buildings, fixtures and improvements now or hereafter located on the Land against loss or damage on an "all risk" (minimum "fire and extended coverage") basis for their full replacement cost value, with losses payable to the Mortgagee pursuant to approved mortgage clauses;
- (ii) maintain general public and third party liability insurance covering the Mortgagor and the Mortgagee against any claims for personal injury, death or property damage occurring on, in or about the Land in amounts not less than \$2,000,000.00;
- (iii) not do or suffer anything to be done whereby such insurance may be cancelled or vitiated;
- (iv) pay all premiums and other monies necessary to obtain and maintain such insurance;
- (v) provide evidence of such insurance to the Mortgagee at least 10 days before the existing insurance expires; and
- (vi) assign and deliver unto the Mortgagee such policies of insurance or receipts appertaining thereto. If the Mortgagor defaults in the performance of any of the above obligations, the Mortgagee shall be entitled, but not obliged, to place such insurance as it deems necessary, and the cost thereof, together with interest at the rate aforesaid, shall be repayable on demand and shall be a charge on the Land. All insurance proceeds payable in respect of any loss may, at the option of the Mortgagee, be applied towards rebuilding, reinstating or repairing the insured buildings, fixtures or improvements or towards any amounts payable hereunder.

5. **Taxes** - The Mortgagor shall pay when due all taxes, rates, assessments, liens, charges, encumbrances or claims (herein collectively called the "taxes") which are or may be or may become charged or chargeable against the Land and shall deliver to the Mortgagee receipts proving payment of the taxes at least 10 days prior to the due dates thereof, provided that:

- (a) the Mortgagee may deduct from any advance of monies hereby secured an amount sufficient to pay the taxes or any of them which have become due or payable and are unpaid at the date of such advance; and
- (b) the Mortgagor shall, at the option of the Mortgagee, in each year during the currency hereof pay to the Mortgagee in equal monthly instalments such amounts as in the opinion of the Mortgagee may be required to pay, prior to their due date, the annual taxes next coming due and payable; the said monthly instalments to be paid with and in addition to the monthly instalments of principal and interest due and payable under this Mortgage. The Mortgagor shall also pay to the Mortgagee before the due date of any taxes any additional sums that may be requisite in order that out of such monthly and additional payments the Mortgagee may pay the whole amount of the taxes on or before the due date thereof.

The Mortgagee shall apply such deduction and payments on the taxes as they become due but only so long as the Mortgagor is not in default under any covenant contained in this Mortgage, but nothing herein contained shall obligate the Mortgagee to apply such payments on account of the taxes more often than annually. Provided, however, that if before any sum or sums so paid to the Mortgagee shall have been so applied there shall be default by the Mortgagor in respect of any payment of principal or interest as herein provided, the Mortgagee may, at its option, apply such sum or sums in or towards payment of the principal and/or interest in default.

- 6. **Fixtures** - All property, erections, buildings, fences, machinery, equipment and improvements, fixed or otherwise, now or hereafter put, installed or erected on the Land, in addition to other fixtures thereon, shall become fixtures and form part of the realty and be included in the expression the "**Land**", and the Mortgagor shall not commit or suffer any act of waste thereon. The Mortgagor shall at all times repair, replace, maintain and keep the Land to such standards as are reasonable and consistent with modern usage and the best practice of others with similar lands, provided that the Mortgagee may at any time require the Mortgagor to repair, rebuild or replace same within a time determined by the Mortgagee and the Mortgagor shall within that time repair, rebuild or replace as required, at its own cost.
- 7. **Covenants Regarding Construction** If the Mortgagor constructs or causes to be constructed, any buildings, roads, utility services or improvements of any kind (the "Project") in, to or upon the said land or any part thereof, the Mortgagor covenants with the Mortgagee:
  - (a) To carry on construction of the Project continuously, diligently and with dispatch until completed in such a manner that, at all times, in the reasonable opinion of the Mortgagee, construction can be completed by such date as may be set out in the Commitment Offer or other agreement between the Mortgagor and the Mortgagee;

- (b) To devote its full efforts and energy to the development and construction of the Project, not to abandon or delay completion of the Project for 30 days or more consecutively during the term of this Mortgage, except for reasons beyond the control of the Mortgagor, or depart from the plans and specifications for the Project;
  - (c) To construct or cause the Project to be constructed in a good and workman like manner in accordance with the plans and specifications for the Project using first class, quality materials and to comply with all restrictions, conditions, ordinances, codes, regulations and laws of governmental departments and agencies having direction over the Project;
  - (d) To correct promptly all defects in the construction or variation in construction of the Project as reported to the Mortgagee by its consultants.
8. **Mortgagee May Perform** - If the Mortgagor fails to perform any covenant on its part herein contained, the Mortgagee may but shall not be obliged to perform any covenant capable of being performed by it. If such performance requires payment of money, the Mortgagee may make such payments and all sums so paid shall be repaid forthwith by the Mortgagor, shall bear interest at the rate herein provided until paid, shall be secured hereby and shall constitute a charge on the Land. Such performance or payment by the Mortgagee shall not be deemed to relieve the Mortgagor from any default hereunder.
9. **Costs and Expenses** - All solicitor's, inspector's, valuator's and surveyor's fees and expenses for drawing and registering this Mortgage, for examining the Land and the title thereto and for making or maintaining this Mortgage a charge on the Land, together with all sums which the Mortgagee may expend or incur in exercising, enforcing or attempting to enforce or in pursuance of any right, power, remedy or purpose hereunder or subsisting, and legal costs, as between a solicitor and his own client on a full indemnity basis, and also an allowance for the time, work and expenses of the Mortgagee or of any agent, solicitor or employee of the Mortgagee for any purpose herein provided whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Mortgagor or otherwise, all shall be secured hereby, shall be a charge upon the Land, shall bear interest at the rate provided herein until paid and all such monies shall be repayable on demand, or if not demanded, then with the next ensuing installment payable hereunder. Without restricting the generality of the foregoing if the Mortgagor shall fail to make a payment or fail to make a payment on the due date or if the Mortgagor shall make the payment and the payment is returned or reversed for any reason; the Mortgagor shall pay to the Mortgagee the sum of **\$250.00** for each and every NSF, missed, late or reversed cheque for each payment that is outstanding and such fee shall accrue until such payment is made, both before and after default and judgement.
10. **LTA Covenants** - The Mortgagor further covenants with the Mortgagee that:

- (a) it has a good title to the Land;
  - (b) it has the right to mortgage the Land;
  - (c) on default the Mortgagee shall have quiet possession of the Land; free from all encumbrances;
  - (d) it will execute such further assurances of the Land as may be requisite;
  - (e) it has done no act to encumber the Land.
11. **Default** - If the Mortgagor shall default in payment of any money hereby secured or in the observance or performance of any of the covenants expressed herein or implied:
- (a) the whole of the monies secured by this Mortgage shall, at the option of the Mortgagee, become due and payable in like manner and to all intents and purposes as if the time in this Mortgage mentioned for payment thereof had fully come and expired;
  - (b) the Mortgagee may enter into possession, either by itself or its agent, of the Land and whether in or out of possession collect the rents and profits thereof, and make any demise or lease of the Land or any part thereof on such terms, for such periods and at such rent as the Mortgagee thinks proper; and that the power of sale herein embodied and contained, or which the Mortgagee may exercise under these presents, may be exercised either before or after, and subject to such demise or lease;
  - (c) it shall and may be lawful for, and the Mortgagor doth hereby grant full power, right and licence to the Mortgagee to enter, seize and distrain upon the Land or any part thereof and by distress warrant to recover as rent reserved as in the case of a demise of the Land, as much of the mortgage monies as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent;
  - (d) the Mortgagee may, whether in or out of possession, either before or after making any such entry, lease, sell, call in, collect or convert into money all or any part of the Land upon such terms, for such periods, at such rents, by a sale en bloc or in part, by public auction or by private contract, with or without any specific conditions as to upset price, reserve bid, title or evidence of title, or other matters from time to time as the Mortgagee in its discretion may think fit, with power to vary or rescind any such contract of sale, to buy in at any such auction and to resell without being answerable for any loss;

- (e) without limiting the generality of the foregoing, at any sale of the Land the Mortgagee may sell for a purchase price payable by instalments, either with or without taking security for the instalments;
- (f) the Mortgagee may deliver to the purchaser good and sufficient conveyances of such Land and give receipts for the purchase money; and
- (g) the Mortgagee may appoint a receiver or receiver/manager (collectively the "**Receiver**") of all or any portion of the Lands or of all or any portion of the rents, revenues, income or profits of or derived from the Lands, and such Receiver shall be deemed to be the agent of the Mortgagee and shall have all the rights and powers of the Mortgagee under or in respect of this Mortgage.

All of the foregoing powers may be exercised by the Mortgagee in addition to all other rights and remedies to which the Mortgagee may be entitled, either at law or in equity, without notice to the Mortgagor. In order to give effect to the powers granted in this Mortgage, the Mortgagor hereby irrevocably appoints the Mortgagee and any Receiver or Receivers appointed as aforesaid to be its attorney, if the security hereby granted becomes enforceable, in its name and on its behalf to execute and perform any conveyances, assurances and things which the Mortgagor ought to execute and perform under the covenants herein contained and generally to use the name of the Mortgagor in the exercise of any of the powers hereby conferred on the Mortgagee and any Receiver.

12. **Deficiency** - If the amount realized under any sale of the Land is insufficient to pay the whole of the principal, interest, costs, charges and expenses and any monies secured hereby when due, the Mortgagor shall forthwith pay or cause to be paid unto the Mortgagee such deficiency.
13. **Non Merger** - The taking of a judgment on any of the covenants herein contained shall not operate as a merger thereof or affect the Mortgagee's rights as herein provided.
14. **Partial Discharge** - Notwithstanding anything to the contrary contained in paragraph 16 although the Mortgagor shall not be entitled to a complete discharge of this Mortgage until after receipt of the entire principal sum, interest thereon, and all other monies secured, the Mortgagee shall from time to time release portions of the Land (each such portion being hereinafter referred to as "Release Parcel") provided that:
  - (a) the Mortgagor is not in default of any covenant or undertaking to be observed or performed by the Mortgagee under this Mortgage;
  - (b) the Mortgagor shall have made payment in reduction of the principal sum for each Release Parcel of an amount equal to ninety (90%) percent of the gross sale price of any Release Parcel; and

- (c) the Mortgagor has paid all interest which has accrued due upon the amount of the principal payment to be made pursuant to paragraph 16(b) above from the last preceding the date of such payment to the date of such payment.
15. **Discharge** - Any discharge of this Mortgage shall be prepared by the Mortgagee and the Mortgagee shall have a reasonable time after receipt of payment in full within which to have prepared and to execute such discharge, and a tender of the monies hereby secured shall not entitle the Mortgagor to receive such discharge, and interest as herein described shall continue to run and accrue until actual payment in full has been received by the Mortgagee, and all legal and other expenses for the preparation and execution of such discharge shall be borne by the Mortgagor.
16. **Subrogation** - In the event of the monies secured hereby or any part thereof being applied to the payment of any charge or encumbrance, the Mortgagee shall be subrogated to all the rights of, and stand in the position of and be entitled to all the equities of the party so paid whether such encumbrance or charge has or has not been discharged, and the decision of the Mortgagee as to the validity or amount of any advance or disbursement made under this Mortgage or of any claim so paid shall be final and binding on the Mortgagor.
17. **Attornment** - The Mortgagor hereby attorns and becomes tenant to the Mortgagee of the Land at a periodic rental equivalent to the payments required to be made by this Mortgage, which rental payments are to be paid on each day appointed for the payment of instalments, and at any time after the security granted hereby becomes enforceable the Mortgagee may enter upon the Lands and determine the tenancy hereby created without giving the Mortgagor any notice to quit. Neither this covenant, nor any other provision of this Mortgage, nor anything done by virtue thereof shall render the Mortgagee a Mortgagee in possession or accountable for any monies except those actually received.
18. **Assignment of Rents** - The Mortgagor covenants and agrees:
- (i) it hereby fully and absolutely assigns, transfers and sets over to the Mortgagee:
    - (1) all of the rents with respect to the Lands which are now or in the future due or accruing due and payable or to be paid, including, without restriction, the rents payable under the Leases, and
    - (2) all of the Landlord's benefits, advantages and rights (but not the obligations) in all Leases and the legal authority to enforce each and every of those benefits, advantages and rights in all Leases; and



- (3) all benefits or rights of action accruing to the Mortgagor arising from any estoppel certificate or other assurance or document provided to the Mortgagor by a tenant of the Lands.
- (ii) This Assignment shall be effective during the currency of the Mortgage;
- (iii) Nothing contained herein shall be deemed to have the effect of making the Mortgagee responsible for the collection of the rents, or any part thereof, or for the performance of any Landlord's or Lessor's obligations (covenant, term or condition) in any Lease;
- (iv) The Mortgagee shall, at its option, be entitled to enforce and rely upon this Assignment upon the occurrence of an event of default;
- (v) The Mortgagee shall not, by reason of this section or by reason of any steps, actions, distress or other proceedings taken to enforce any of the rights granted to it hereunder, be deemed to be or will be a Mortgagee in possession of the Lands or any part thereof;
- (vi) The Mortgagee shall be liable only to account to the Mortgagor for such monies as may be actually received by the Mortgagee. The Mortgagee agrees that such monies, when received, shall be applied on account of the Mortgage monies;
- (vii) Neither this Assignment or anything contained herein shall bind the Mortgagee to recognize any Lease, nor in any way render the interest of the Mortgagee in the Lands subject to any such Lease. All remedies now or hereafter available to the Mortgagee as described in this Mortgage or in any Collateral Security granted to the Mortgagee by the Mortgagor are hereby reserved to the Mortgagee and may be exercised notwithstanding any Lease or this Assignment;
- (viii) The Mortgagor represents to the Mortgagee that no rental monies in excess of one monthly instalment has been paid in advance under any Lease and that the Mortgagor will not demand or accept in advance any rents reserved or payable under any Lease in excess of one monthly instalment without the prior consent of the Mortgagee;
- (ix) As collateral security, the Mortgagor will immediately upon request from the Mortgagee assign to the Mortgagee the Mortgagor's interest in each and every specific Lease;
- (x) In the event that the Mortgagor shall be in default in the observance or performance of any of the terms or conditions of this Assignment, then, at

the option of the Mortgagee the Mortgage monies shall forthwith become due and payable and in default of payment, the Mortgagee shall be entitled to exercise such remedies to realize its security under the Mortgage, as it may by law or equity be entitled;

- (xi) The Mortgagor hereby acknowledges that this Assignment constitutes and creates interests in land in favour of the Mortgagee and the Mortgagor agrees that the Mortgagee or its agent may forthwith register this Assignment at such Registry Offices as the Mortgagee or its agent may in their discretion deem appropriate, including but not limited to registration at the Land Titles Office for the North or the South Alberta Land Registration District. In addition the Mortgagee is hereby authorized and directed to register a Caveat or Caveats against title to the Lands giving notice of the fact that this Assignment has been granted and is contained in this Mortgage. In consideration of the sum of \$1.00 and the Mortgagee agreeing to lend the monies described herein, the Mortgagor and its successors and assigns, whether permitted or not, hereby covenant not to take any steps whatsoever so as to challenge or remove such Caveat or Caveats until the Mortgage monies and all obligations set forth herein have been fully paid and satisfied.
- (xii) As of the date of execution of this Mortgage:
  - (1) All Leases are valid, subsisting and in good standing,
  - (2) It has the right to assign the Leases to the Mortgagee as collateral security for repayment of the Mortgage monies and, has not previously assigned the Leases, the rents payable thereunder or any interest therein, and
  - (3) none of the tenants under the Leases are in default of any of their respective obligations thereunder;
- (xiii) To faithfully perform any Lessor's covenants which it may have undertaken or which it may undertake under any Lease and neither do, nor neglect to do, nor permit to be done, any act (other than pursuing the enforcement of the terms of such Lease in the exercise of the Lessor's remedies thereunder following default on the part of any Lessee in the performance of its prescribed obligations) which may cause the material modification or the termination of any Lease, or of the obligations of any Lessee or any person claiming through such Lessee or which may diminish or impair the value of any Lease, or the rents provided for therein, or the interest of the Lessor or of the Mortgagee therein or thereunder;

- (xiv) Not to permit an assignment of any Lease or any subleasing thereunder unless the right to sublet or assign under the Lease is expressly reserved by the Lessee nor to collect in advance for more than one month any rents that may become collectable under such Lease;
  - (xv) It will not execute a Mortgage or create or permit a lien which may be or become superior to any Lease and which charges are duly registered or protected in accordance with the provisions of *The Land Titles Act* of Alberta, Chapter L 4, Revised Statutes of Alberta, 2000, and any amendments thereto; and
  - (xvi) In the ownership, operation and management of the Lands, the Mortgagor will observe and comply with all applicable Federal, Provincial and local bylaws, statutes, ordinances and regulations, orders and restrictions including without limitation, all zoning and building codes affecting the Lands.
19. **Prepayment Rights:** The Borrower may prepay the Loan in whole or in part without penalty or notice.
20. **Administration Fee** - In the event of a default then the Mortgagee shall, notwithstanding anything contained herein to the contrary, be entitled to receive in addition to all other fees, charges and disbursements an administration and management fee. This administration and management fee is intended to reimburse the Mortgagee for time and trouble in the management and administration of this Mortgage and of the Lands when the Mortgagor is in default. The said sum or sums are agreed to be a liquidated amount to cover the Mortgagee's reasonable administration and management costs and are not intended nor shall be construed to be a penalty. All such sums payable to the Mortgagee shall be a charge upon the Lands and shall bear interest at the interest rate set out herein until paid.
21. **Land Titles Name Search-** The Mortgagor hereby authorizes and consents to the Mortgagee, being a credit-granting corporation, conducting a name search from time to time, as the Mortgagee in its sole discretion deems necessary, including without limitation, a name search in accordance with Sections 16 and 17 of *The Land Titles Act* R.S.A. 2000, c. L-4, as amended, or in accordance with such legislation that may hereafter replace or be passed in substitution thereof.
22. **Prior Encumbrances** - If the Mortgagor makes default in the performance of any of the covenants or conditions contained in any prior Mortgage secured upon the said Land, then all the monies hereby secured, including bonuses, together with interest shall at the option of the Mortgagee become due and payable on demand. The Mortgagee shall be at liberty in case of such default or default hereunder to pay any arrears or other sums

payable under such prior mortgage or pay all or any portion of the principal and interest thereby secured. Any amounts so paid by the Mortgagee shall be added to the amount hereby secured, bear interest at the rate herein provided until repaid, be a charge upon the said Land, and unless repaid to the Mortgagee upon demand shall be recoverable from the Mortgagor in the same manner as if such sum has been originally secured hereby.

23. **Additional Charges** – The Mortgagor shall not charge, mortgage or finance the Lands or allow any subsequent charges, mortgages or financial instruments to be registered against the Lands without the express written authorization of the Mortgagee. Any additional charges, mortgages or financings registered against the Lands without express written authorization of the mortgagee shall be considered a default of this Mortgage.
24. **Due on Sale Provisions** - In the event that the Mortgagor, without the prior written consent of the Mortgagee, which consent may be unreasonably withheld, directly or indirectly sells, conveys, transfers, further encumbers, disposes of or parts with possession of the Land or any part thereof, or grants any option or right of first refusal to purchase or lease of the Land or any part thereof, or any interest therein or agrees so to do, such shall constitute default under this Mortgage and the Mortgagee, at its option and in its sole discretion, may declare the principal sum, interest and all other monies secured hereby due and payable, to the same extent as if the time for payment therefor had fully expired. No consent by the Mortgagee hereunder shall be deemed a waiver of the right to require consent to future or successive transactions.
25. **Condominium Provision** - The Mortgagor shall observe and perform each and every one of the covenants and provisions required to be observed and performed under or pursuant to the terms of this Mortgage, and of *The Condominium Property Act*, of Alberta, and all amendments thereto, and any legislation passed in substitution thereof, and the by-laws of the Condominium Corporation of which the Mortgagor is a member by virtue of his ownership of the condominium unit being charged by this Mortgage (herein sometimes called the “**Condominium Corporation**”), and any amendments thereto; without limiting the generality of the foregoing, the Mortgagor shall pay promptly when due any and all unpaid assessments, instalments or payments due to the Condominium Corporation by an owner of a condominium unit. If the Mortgagor defaults in his obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment or payment due to the Condominium Corporation or upon breach of any covenant or provision hereinbefore in this paragraph contained, including those covenants and provisions referred to herein, regardless of any other action or proceeding taken or to be taken by the Condominium Corporation, the Mortgagee, at its option and without notice to the Mortgagor may deem such default to be default under the terms of this Mortgage and proceed to exercise its rights herein; upon default herein and notwithstanding any other right or action of the Condominium Corporation or the Mortgagee, the Mortgagee may distrain for arrears of any assessments, instalments or payments due to the Mortgagee or arising under this clause.

26. **Interpretation** - Whenever the singular or plural number, masculine, feminine or neuter gender is used in this Mortgage it shall be construed as including the singular, plural, masculine, feminine or neuter respectively where the fact or context so requires. If this Mortgage is executed by more than one party all covenants and agreements shall be construed as binding such parties jointly and severally. The provisions of this Mortgage shall be in addition to those granted or implied by statute.
27. **Enurement** - This agreement shall enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, personal representatives, successors and assigns.
28. **Charging** - And for the better securing to the Mortgagee the repayment in the manner aforesaid of the Principal Sum and interest and other money hereby secured, the Mortgagor does hereby mortgage to the Mortgagee all the Mortgagor's estate and interest in the Land.

IN WITNESS WHEREOF the Mortgagor has executed this agreement this \_\_\_ day of June, 2019.

**SIGNED SEALED and DELIVERED**  
in the presence of:

\_\_\_\_\_

} **2155734 ALBERTA LTD..**  
}  
}  
}  
} **Per:** \_\_\_\_\_  
} **Name:**  
} **Title:**

**SCHEDULE A**

**The Lands**

**FORM 31.1  
LAND TITLES ACT  
(Section 152.3)**

**AFFIDAVIT VERIFYING  
CORPORATE SIGNING AUTHORITY**

I, \_\_\_\_\_, of the City of Edmonton, in the Province of Alberta,  
MAKE OATH AND SAY:

1. I am an officer or director of 2155734 ALBERTA LTD., named in the within or annexed instrument.
2. I am authorized by the corporation to execute the instrument without affixing a corporate seal.

SWORN before me  
at the City of Edmonton  
in the Province of Alberta  
this \_\_\_\_\_ day of June, 2019.

\_\_\_\_\_  
A Commissioner for Oaths in and  
for Alberta



\_\_\_\_\_

