

Court File No. 17-73967

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**FIRST NATIONAL FINANCIAL GP CORPORATION**

Applicant

and

**GOLDEN DRAGON HO 10 INC. and GOLDEN DRAGON HO 11 INC.**

Respondents

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**SEVENTH REPORT OF THE RECEIVER & MANAGER**

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**DATED SEPTEMBER 27, 2019**

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<b>Confidential Appendix “C”</b>	Unredacted version of the Offer to Purchase from Royal United Investments Limited dated August 27, 2019
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- Confidential Appendix “F”** Receiver’s analysis of the purchase price in the Offer to Purchase from Royal United Investments Limited in the context of the Property Appraisals
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## INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (the “**Court**”) dated September 22, 2017 (the “**Appointment Order**”), Deloitte Restructuring Inc. (“**Deloitte**”) was appointed as the interim receiver (the “**Receiver**”) of certain real property of Golden Dragon Ho 10 Inc. (“**GDH 10**”) municipally known as 347 Barber Street, Ottawa, Ontario (formerly known as 347 Clarence Street, Ottawa) (“**347 Barber**”) and of certain real property of Golden Dragon Ho 11 Inc. (“**GDH 11**”, and combined with GDH 10, the “**Debtors**”) municipally known as 345 Barber Street, Ottawa, Ontario (formerly known as 345 Clarence Street, Ottawa) (“**345 Barber**”) (collectively, with 347 Barber, referred to herein as the “**Property**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. The Appointment Order authorized the Receiver to, among other things:
  - (a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) undertake any renovations and make any repairs to the Property necessary to ensure that the Property is well maintained and rentable and is in compliance with the applicable laws and building codes; and
  - (c) market available rental units, enter into new rental agreements or renew expiring rental agreements where applicable.
3. On October 20, 2017, the Applicant, First National Financial GP Corporation (“**FN**”), brought a motion to, among other things, extend the appointment of the Receiver as permitted under section 47(1)(c) of the *Bankruptcy and Insolvency Act*. In support of that motion, the Receiver filed with the Court its First Report of the Interim Receiver dated October 17, 2017 (the “**First Report**”). Based on the First Report and submissions made to the Court by counsel for FN and the Receiver on October 20, 2017, the Court granted an Order approving the Receiver’s actions as described in the First Report, approving the Receiver’s Interim

Statement of Receipts and Disbursements for the period from September 22 to October 13, 2017, and extending the appointment of the Receiver until further Order of this Court.

4. On December 20, 2017, FN and the Receiver brought a motion to, among other things, approve the Receiver's activities, including the Receiver's course of action with respect to the repairs to the Property and the strategy for leasing vacant units, to approve the Receiver's Interim Statement of Receipts and Disbursements for the period from September 22, 2017 to November 30, 2017, and to approve the fees and disbursements of the Receiver and its legal counsel Blaney McMurtry LLP ("**Blaneys**") from July 4, 2017 to November 30, 2017, and Dickinson Wright LLP ("**DW**") from September 20, 2017 to October 17, 2017. In support of that motion, the Receiver filed with the Court its Second Report of the Interim Receiver dated December 13, 2017 (the "**Second Report**"). Based on the Second Report and submissions made to the Court by counsel for FN and the Receiver on December 20, 2017, the Court granted an order approving the relief sought.
  
5. On June 11, 2018, FN and the Receiver brought a motion to, among other things, approve the Receiver's activities, authorize the Receiver to retain a contractor to undertake repairs to 17 units which were not then in a rentable condition (the "**17 Unit Repairs**"), seek an order discharging and deleting from title to 345 Barber a third mortgage registered as Instrument Number OC1933770 (the "**Third Mortgage**"), approve the Receiver's Interim Statement of Receipts and Disbursements for the period from September 22, 2017 to April 30, 2018, and to approve the fees and disbursements of the Receiver and its legal counsel Blaneys from December 2, 2017 to April 6, 2018, and December 1, 2017 to April 30, 2018, respectively. In support of that motion, the Receiver filed with the Court its Third Report of the Interim Receiver dated May 29, 2018 (the "**Third Report**"). Based on the Third Report and submissions made to the Court by counsel for FN and the Receiver on June 11, 2018, the Court granted an order approving the relief sought, subject to the proviso that the Receiver was not to engage its contractor to carry out the 17 Unit Repairs until June 30, 2018, in order to permit the principal of the Debtors to move before the Court with an alternative proposal for the remediation work prior to that date.

6. On June 29, 2018, the Debtors filed a Notice of Motion seeking, among other things, an Order allowing them to carry out the 17 Unit Repairs instead of the Receiver, and pay the arrears under the FN Mortgage over 345 Barber by September 1, 2018 (the “**Debtors’ Motion**”).
7. In support of the Debtors’ Motion, Chi Van Ho (“**Ho**”) swore an Affidavit dated June 29, 2018 (the “**Ho Affidavit**”) wherein he swore that evidence of ability to fund would be provided in a further affidavit. However, no further affidavit evidencing that funding was in place to undertake the 17 Unit Repairs was subsequently delivered.
8. On July 9, 2018, the Receiver brought a motion for, among other things, advice and directions regarding the Debtors’ Motion and an order declaring that the Receiver could retain the contractor recommended in its Third Report to undertake the repairs to the 17 Unit Repairs (the “**July 9, 2018 Motion**”). In support of the July 9, 2018 Motion, the Receiver filed with the Court its Supplemental Report to the Third Report dated July 3, 2018 (the “**Supplemental Third Report**”).
9. Based on the Third Report and the Supplemental Third Report, and submissions made to the Court by counsel for the Receiver on July 9, 2018, the Court made an endorsement authorizing the Receiver to proceed with retaining the contractor it recommended in the Third Report.
10. In its Fourth Report of the Interim Receiver dated October 15, 2018, the Receiver provided the Court with an update on the status of the Property and its activities, and sought approval for those activities as well as the fees and disbursements of the Receiver from April 7 to September 30, 2018, and the fees and disbursements of Blaneys from May 1 to September 27, 2018. On October 25, 2018, the Court granted an Order (the “**October 25, 2018 Order**”) approving the relief sought.
11. On December 21, 2018, the Applicant and the Receiver brought a motion for, among other things, advice and direction regarding the extent to which the Receiver and Canada Revenue Agency (“**CRA**”) could engage in communications concerning certain tax evasion charges

brought against Ho insofar as they relate to, or potentially relate to, the Property. In support of that motion, the Receiver filed the Fifth Report of the Interim Receiver dated December 17, 2018 which outlined the purported charges against Ho as reported in the media. By way of endorsement (the “**December 21, 2018 Endorsement**”), the Court adjourned the matter *sine die* and urged the parties to agree on the wording of correspondence to CRA, failing which they could return to Court for direction. A copy of the December 21, 2018 Endorsement is attached hereto as **Appendix “B”**.

12. Due to the motion by Liahona Mortgage Investment Corp. (“**Liahona**”), the second mortgagee of 345 Barber, to expand the Receiver’s powers to those of a ‘full blown’ receiver and manager and approve a marketing and sale process for the Property, the need to communicate with CRA regarding the charges brought against Ho became moot.
13. On May 21, 2019, Liahona and the Receiver each brought motions, for among other things, advice and direction with respect to expanding the Receiver’s mandate to that of a receiver and manager, authorizing the Receiver to conduct a marketing and sale process to realize on the Property, approving the Receiver’s proposed marketing and sale process, and authorizing the Receiver to enter into a listing agreement with CBRE Group Inc. (“**CBRE**”). In support of that motion, the Receiver filed with the Court the Sixth Report of the Interim Receiver dated May 6, 2019 (the “**Sixth Report**”), a copy of which is attached (without appendices) hereto as **Appendix “C”**.
14. Based on the Sixth Report and the submissions made by Liahona, on May 26, 2019 the Court granted an order (the “**Expanded Powers Order**”) approving the relief sought. A copy of the Expanded Powers Order is attached hereto as **Appendix “D”**.
15. The above noted Court Orders, Endorsements, the Receiver’s previous Reports, the Receiver’s Seventh Report to the Court (the “**Seventh Report**”), and other key documents have been posted on the Receiver's website at [www.insolvencies.deloitte.ca/en-ca/GoldenDragonHo10-11](http://www.insolvencies.deloitte.ca/en-ca/GoldenDragonHo10-11).



## PURPOSE OF REPORT

16. The purpose of this Seventh Report is to:

- (a) seek the Court's approval of the activities of the Receiver as described in the Seventh Report including, without limitation, the steps taken by the Receiver to market and sell the Property;
- (b) seek a Court order (the "**Approval and Vesting Order**") approving the transaction (the "**Transaction**") contemplated in the Offer to Purchase dated August 27, 2019 made by Royal United Investments Limited ("**Royal United**" or the "**Purchaser**") and accepted by the Receiver (the "**APS**"), together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, for the sale of the Property and vesting the Debtors' right, title and interest in the Property in and to the Purchaser's designees, 347 Barber Street Ltd. and 345 Barber Street Ltd. (collectively, the "**Purchaser's Designees**"), upon the closing of the Transaction;
- (c) seek the Court's approval, after the completion of the Transaction, to:
  - i) pay to CBRE its commission of 1.25% of the purchase price under the APS (plus HST);
  - ii) allocate the sale proceeds from the Transaction on the basis agreed to by FN and Liahona, that being 73% to 345 Barber and 27% to 347 Barber;
  - iii) make a distribution to FN to fully satisfy the amounts owing under its mortgages on the Property;
  - iv) make a distribution to Liahona to partially satisfy the amount owing under its mortgage over 345 Barber;
  - v) make a distribution to the City of Ottawa (the "**City**") and the Ministry of Municipal Affairs and Housing (the "**Ministry**") to partially satisfy the amount owing under their mortgage over 347 Barber;

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- (d) seek the Court's approval of the Receiver's Interim Statement of Receipts and Disbursements for the period from September 22, 2017 to August 31, 2019;
- (e) seek the Court's approval of the fees and disbursements of the Receiver from April 1, 2018 to July 31, 2019, DW from April 9, 2019 to August 12, 2019, and Blaneys from May 1, 2018 to August 30, 2019;
- (f) seek the Court's authorization and direction, *nunc pro tunc*, to redact from the Seventh Report served on the parties named in the service list, (i) the Receiver's comparison of Offers (as defined herein), attached hereto as **Confidential Appendix "A"**; (ii) the Receiver's comparison of resubmitted Offers, attached hereto as **Confidential Appendix "B"**; (iii) the unredacted version of the APS, attached hereto as **Confidential Appendix "C"**; (iv) the Updated Appraisal Report of the Property prepared by Juteau Johnson Comba Inc. dated February 6, 2019 (the "**Juteau Appraisal**"), attached hereto as **Confidential Appendix "D"**; (v) the Appraisal Report of the Property prepared by Veritas Valuation Inc. dated January 31, 2019 (the "**Veritas Appraisal**", and combined with the Juteau Appraisal, the "**Property Appraisals**") attached hereto as **Confidential Appendix "E"**; (vi) the Receiver's analysis of the purchase price in the APS in the context of the Property Appraisals, attached hereto as **Confidential Appendix "F"**; and (vii) the analysis of the estimated allocation of the sale proceeds amongst the secured creditors, attached hereto as **Confidential Appendix "G"**; and
- (g) seek a Court order sealing the unredacted version of the Seventh Report, including the Confidential Appendices "A" through "G" filed with this Court from the public record, until the closing of the Transaction or further order of this Court.

## TERMS OF REFERENCE

17. In preparing this Seventh Report, the Receiver has reviewed unaudited financial information and other records related to the Property provided by its property manager, CLV Group Inc., ("**CLV**"), information provided by CBRE and other third-party sources, and has held

discussions with individuals involved in administering the Property (collectively, the “**Information**”). Except as described in this report:

- (a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information;
  - (b) some of the information referred to in this Seventh Report consists of forecasts and projections which were prepared based on estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the forecasted or projected results. Accordingly, the reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant; and
  - (c) the Receiver has prepared this Seventh Report in its capacity as a Court-appointed officer to support the Court’s approval of the Receiver’s activities to date, its course of action with respect to a sale of the Property, and the other relief being sought. Parties using this report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes.
18. Unless otherwise stated, all dollar amounts contained in this Seventh Report are expressed in Canadian dollars.
19. Unless otherwise provided, all other capitalized terms not otherwise defined in this Seventh Report are as defined in the Terms and Conditions of Sale, the APS, the Appointment Order or the Expanded Powers Order.

20. The Receiver has sought the advice of Blaneys, counsel to the Applicant, for general legal matters that have arisen in respect of the interim receivership. Where the Receiver has required independent legal advice, the Receiver has sought the counsel of DW.

## BACKGROUND

21. The Property is comprised of 2 adjoining six-story multi-unit apartment buildings that consist of 110 units in total. Eighty of these units are located in 345 Barber, and the remaining 30 units are located in 347 Barber. The buildings operate as one complex as they are connected on every floor except the basement, and share common areas and facilities. Of the 110 units, 30 units are to be used for affordable housing purposes pursuant to agreements with the City and the Ministry. These 30 below market rent (“**BMR**”) units are hereinafter referred as the “**BMR Units**”.
22. Upon the appointment of the Receiver, the Property was approximately 60% occupied. The low occupancy was due primarily to the Debtors’ plan (without FN’s knowledge or consent) to convert 345 Barber to student housing by increasing the number of bedrooms in certain units and by making certain modifications to the lobby and the basement. In order to carry out this plan, the Debtors arranged for certain market rate tenants to move from 345 Barber to 347 Barber in order to free up units so that renovations could be undertaken. In addition, alterations to the building had been started in the lobby, the basement, and certain units on the upper floors of 345 Barber. Much of this work remained substantially unfinished as of the date of the Appointment Order.
23. The Receiver set out to stabilize the Property, undertake certain repairs to the roof, the lobby and other common areas and certain renovations to bring units back into rentable condition with the goal of increasing occupancy. Those efforts resulted in an increase in occupancy to over 100 units by February 2019 which, subject to typical occupancy fluctuations, has since been maintained.

## RECEIVER'S ACTIVITIES SINCE THE SIXTH REPORT

24. Since the date of the Sixth Report, the Receiver has undertaken the following activities in accordance with the terms of the Appointment Order and the Expanded Powers Order:
- (a) Followed up with CLV to rent the vacant units in 345 Barber to the general public, and rent the vacant units in 347 Barber to BMR tenants identified through various City programs;
  - (b) Approved and directed CLV to complete certain necessary repairs to fire safety systems;
  - (c) Reviewed the monthly Property accounting prepared by CLV, and prepared the Receiver's Interim Statement of Receipts and Disbursements;
  - (d) Executed the Exclusive Authority to Sell Agreement with CBRE;
  - (e) Finalized the Terms and Conditions of Sale for the proposed sale of the Property and worked with DW to prepare a form of Offer to Purchase;
  - (f) Managed the accumulation and preparation of financial and building information that was uploaded to CBRE's online data room;
  - (g) Reviewed CBRE's marketing documents, including the Introductory Information Brochure (the "**Brochure**") and the Confidential Information Memorandum (the "**CIM**");
  - (h) Maintained frequent communication with CBRE throughout the marketing process;
  - (i) Provided updates to FN and Liahona concerning the progress of the marketing process;
  - (j) Provided updates to the City and the Ministry on the status of the Property and the BMR Units and the status of the sale and marketing process;
  - (k) Reviewed the Offers to Purchase (the "**Offers**") received by the bid deadline and held discussions with CBRE concerning responding to the Offers received;

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- (l) Responded to information requests from FN and Liahona and their legal counsel concerning the potential proceeds from sale based on the Offers received;
- (m) Negotiated and executed the APS; and
- (n) Responded to various creditor inquiries.

## THE MARKETING AND SALE PROCESS

- 25. The marketing process commenced on June 27, 2019, with CBRE distributing the Brochure to its database of over 3,500 prospective purchasers which is comprised of a mix of pension funds, fund advisors, REITs and private investors. CBRE distributed the Brochure a second time on July 9, 2019.
- 26. CBRE also commenced a calling campaign to communicate the opportunity directly to their prioritized targeted list of buyers.
- 27. Prior to the offer deadline date of July 30, 2019 (the “**Initial Offer Deadline**”), CBRE received 20 executed confidentiality agreements from interested parties who were then provided access to the online data room, which contained the CIM as well as other pertinent information for them to conduct due diligence on the Property. Of those 20 parties, eight completed site tours, which CBRE considered to represent average interest for an opportunity of this profile, size and location.
- 28. By the Initial Offer Deadline, the Receiver received 4 Offers for the Property. A summary of the Offers is set out in the attached **Confidential Appendix “A”**.
- 29. After a review of the Offers and discussions with CBRE, pursuant to the Terms and Conditions of Sale, the Receiver identified 3 offerors as Qualified Offerors. On August 1, 2019, CBRE advised the Qualified Offerors that they had been designated as such, and requested that they: i) resubmit their offer in order to remove or improve certain terms and conditions, ii) should they wish to do so, resubmit their offer with an improved purchase price, and iii) where applicable, provide further details concerning their ability to complete

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a transaction. The Receiver set August 7, 2019 as the deadline for resubmission of offers (the “**Resubmission Deadline**”).

30. By the Resubmission Deadline, the Receiver received revised offers from all of the Qualified Offerors. A summary of the resubmitted offers is set out in the attached **Confidential Appendix “B”**.
31. The Receiver identified the offer from Royal United as the best offer in terms of price and conditions as they required the least amount of further due diligence (discussed further in the next section) suggesting little risk of purchase price grind compared to the other offers. A copy of the unredacted version of the APS is attached hereto as **Confidential Appendix “C”**. In assessing the sufficiency of the price in the Royal United offer, the Receiver consulted the Property Appraisals that were commissioned by FN in early 2019, copies of which are in the attached **Confidential Appendices “D”** and **“E”**. Attached as **Confidential Appendix “F”** is the Receiver’s analysis of the purchase price in the offer from Royal United in the context of the Property Appraisals. Based on that analysis, the Receiver is of the view that the purchase price in the APS represents fair market value.
32. On August 11, 2019, the Receiver advised FN and Liahona of its intention to proceed with the offer from Royal United, subject to certain minor amendments to the offer. Both lenders advised the Receiver that they agreed with the Receiver’s course of action. CBRE then advised the other Qualified Offerors that the Receiver had selected another offer. On August 27, 2019, with the parties having agreed to the minor amendments, the Receiver and Royal United executed the APS.

#### **THE OFFER TO PURCHASE FROM ROYAL UNITED INVESTMENTS LIMITED**

33. The APS provides that the Property is being purchased on an “as is, where is” and “without recourse” basis. A redacted copy of the APS is attached hereto as **Appendix “E”**.
34. The sole condition in favour of the Purchaser under the APS was the receipt by the Purchaser of a Phase I Environmental Site Assessment (“**ESA**”) which disclosed no new environmental

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risk or contaminants beyond any potential issues mentioned in an ESA report prepared in 2017, which also concluded that no Phase II ESA is warranted (the “**Purchaser’s Condition**”). On September 26, 2019, the Purchaser advised the Receiver that it obtained the ESA to its satisfaction and waived the Purchaser’s Condition.

35. On September 26, 2019, the Purchaser also delivered a written direction to the Receiver directing title to the Property to be placed in the Purchaser’s Designees upon closing.
36. The APS is subject to the Court issuing an Approval and Vesting Order that approves the APS and vests title to the Property in the Purchaser. The APS requires that the Approval and Vesting Order be granted within 21 days of the Purchaser’s waiver of the Purchaser’s Condition. The Closing of the Transaction is to occur within 10 days following the approval of the APS by the Court and the issuance of the Approval and Vesting Order. For Closing to occur, the Receiver is to deliver a Receiver’s Certificate (in the form attached to the form of Approval and Vesting Order included in the Motion Record accompanying this Seventh Report) to the Purchaser which will certify that all of the conditions of the APS have been satisfied or waived or are to be fulfilled on a post-closing basis and the balance of the purchase price, including applicable taxes, has been paid in full by the Purchaser.
37. The Purchaser has informed the Receiver that it does not wish to assume the affordable housing agreements with the City and the Province (which the Debtors assumed when they purchased the Property). As a result, the APS provides that registrations relating to those agreements are to be removed from title.
38. The Receiver is of the view that the APS with Royal United represents the best transaction in the circumstances. Both FN and Liahona approve of the Transaction. As such, the Receiver is seeking the Approval and Vesting Order.



## PROPOSED DISTRIBUTION OF SALE PROCEEDS

39. The Affidavit of Christopher Sebben of FN, sworn September 19, 2017 in support of the original application for the appointment of the Receiver, sets out the various mortgages and charges on the property in favour of FN, Liahona, and the City and the Ministry.
40. The Receiver has obtained independent, written legal opinions from DW with respect to the validity and enforceability on the security held by each of FN, Liahona, and the City and the Ministry (collectively, the “**Security Opinions**”). According to the Security Opinions, it is DW’s view that, subject to the customary qualifications and limitations contained therein, the security held by each of FN, Liahona, and the City and the Ministry is valid and enforceable against the Property of the Debtors as more particularly described in such security. Copies of the Security Opinions are attached hereto as **Appendices “F”, “G” and “H”**.
41. FN has provided the Receiver with Mortgage Discharge Statements for its first ranking mortgages on the Property as of August 16, 2019 (the “**FN Payout Statements**”). Copies of the FN Payout Statements are attached hereto as **Appendix “I”**. The FN Payout Statements indicate that as of August 16, 2019, FN was owed \$10,062,430.30. FN will provide the Receiver with final payout statements once the Transaction has closed and the Receiver is in a position to make distributions. The Receiver notes that the FN Payout Statements include FN’s expenses relating to its mortgages, which include appraisal fees of \$22,280.90, building condition report fees of \$3,672.50, property management fees of \$10,735.00 for the period prior to the Appointment Order, legal fees of \$254,218.30 and funding of \$484,753.36 provided to the Receiver by way of Receiver’s Certificates. Those expenses have been allocated by FN between 345 Barber and 347 Barber on a 50/50 basis, as has the commission payable to CBRE on the completion of the Transaction. FN advises that these 50/50 allocations are the basis on which FN consented to the Transaction, and which Liahona then also consented. The Receiver notes, however, that Liahona’s consent to the Transaction is irrevocable notwithstanding any changes to the allocations set out above which the Court may make to the detriment of Liahona.

42. Liahona has provided the Receiver with a Mortgage Statement for Discharge Purposes dated September 10, 2019 for its second ranking mortgage over 345 Barber St. (the “**Liahona Payout Statement**”). A copy of the Liahona Payout Statement is attached hereto as **Appendix “K”**. The Liahona Payout Statement indicates that as of September 30, 2019 Liahona is owed \$3,859,453.38, and its mortgage continues to accumulate per diem interest of \$794.52.
43. The City and the Ministry jointly hold a second mortgage in the amount of \$1,805,004 which is secured over 347 Barber St. (the “**Affordable Housing Mortgage**”). According to the Municipal Housing Project Facilities Agreement dated March 3, 2006 between the City of Ottawa and GDH 10 (assumed from Quex Property Corporation on or about May 24, 2016), the Affordable Housing Mortgage was provided to partially fund the construction and operation of 347 Barber as affordable housing and for as long as 347 Barber continues to provide affordable housing for a period 40 years from the date of occupancy (which occurred at some point in 2008), no payments are owing on the Affordable Housing Mortgage and the principal amount would be forgiven. Given that the APS provides that the Affordable Housing Mortgage is to be vested off title, the Affordable Housing Mortgage will become payable on Closing. The City and the Ministry have not yet provided the Receiver with a payout statement for the Affordable Housing Mortgage.
44. Based on the Security Opinions and the various payout statements, a summary of the mortgages against the Property and their relative priority is set out below:

<b>Lender</b>	<b>Property</b>	<b>Priority</b>	<b>Amount Owing on Mortgage</b>
First National Financial Corporation	345 Barber	First Charge	\$6,724,279.86
First National Financial Corporation	347 Barber	First Charge	\$2,542,220.17
First National Financial Corporation	347 Barber	Second Charge	\$795,930.25
Liahona Mortgage Investment Corp.	345 Barber	Second Charge	\$3,859,453.38
City of Ottawa & Ministry of Municipal Affairs & Housing	347 Barber	Third Charge	\$1,805,004.00

45. FN and Liahona have both advised the Receiver that they have agreed that the proceeds from the sale of the Property and any surplus funds in the Receiver's possession after satisfaction of all receivership costs are to be allocated 73% to 345 Barber and 27% to 347 Barber. The Receiver notes that this allocation is consistent with the number of units in each building at the Property (80 of 110 units or 72.7% for 345 Barber, and 30 of 110 units or 27.3% for 347 Barber) and with the allocation of the purchase price between the buildings when the Debtors purchased the Property from Quex Property Corporation in May 2016 (72.74% to 345 Barber and 27.26% to 347 Barber). An estimated allocation of proceeds from the sale reflecting the allocation of 73% to 345 Barber and 27% to 347 Barber based on a September 30, 2019, closing date is included in **Confidential Appendix "G"**. The ultimate amount of the distributions to the secured creditors will be dependent on: i) the extent of any closing adjustments in the Transaction; ii) the amounts owing on the various mortgages on closing; and iii) the amount of surplus cash on hand in the Receiver's trust account from operations after satisfying all of the receivership costs including professional fees.
46. The Receiver is seeking the Court's approval, subject to the closing of the Transaction and a reasonable reserve to satisfy payment of the Receiver's fees and disbursements, including legal fees, required to complete the Transaction and complete the administration of the receivership:
- i) to allocate the sale proceeds, and any excess funds in the Receiver's possession, on the basis of 73% to 345 Barber and 27% to 347 Barber;
  - ii) to make a distribution to FN in full satisfaction of the amount owing under its three first ranking charges over the Property as at the date of the distribution;
  - iii) to make a distribution to Liahona in partial satisfaction of its second ranking claim on 345 Barber St.; and
  - iv) to make a distribution to the City and the Ministry in partial satisfaction of the amount of their Affordable Housing Mortgage charge over 347 Barber.

## STATEMENT OF RECEIPTS AND DISBURSEMENTS

47. Attached hereto as **Appendix “L”** is the Interim Statement of Receipts and Disbursements for the receivership for the period September 22, 2017 to August 31, 2019 (the “**R&D**”). The R&D includes the rental receipts received into the property management account and the disbursements made by the Receiver from its trust account. The R&D separates out the receipts and disbursements between September 22, 2017 and March 31, 2019, which receipts and disbursements were accepted and approved in the December 20 Order, the June 11 Order, the October 25 Order, and the Expanded Powers Order, and the receipts and disbursements between April 1, 2019 and August 31, 2019, which reflect the Receiver’s receipt and disbursement activity since the Sixth Report.
48. Total cash receipts reported in the R&D from tenants rent, roof top cellular equipment, MOH funding, Receiver’s certificates, laundry and miscellaneous revenue are \$2,422,758. Total disbursements are \$2,178,202, which include, but are not limited to, repairs and maintenance, insurance, property management fees, consultant fees, utilities, legal fees and Receiver Fees. Net cash on hand as of August 31, 2019 is \$244,555.
49. The Receiver, after satisfying all of its costs and expenses relating to the receivership and the operation of the Property, including professional fees, intends to disburse any remaining funds in its accounts on the same basis as the allocation of proceeds from the Property, that being 73% to 345 Barber and 27% to 347 Barber.

## PROFESSIONAL FEES

50. The Receiver and its legal counsel have maintained detailed records of their professional time and costs since the issuance of the Appointment Order. Pursuant to paragraph 17 of the Appointment Order, the Receiver and its legal counsel were directed to pass their accounts from time to time before a judge of the Court.
51. The total fees of the Receiver during the period from April 1, 2019 to August 31, 2019, amount to \$84,734.50 together with disbursements of \$nil plus HST of \$11,015.50, totaling

\$95,750.00 (the “**Receiver Fees**”). The time spent by the Receiver is more particularly described in the Affidavit of Hartley Bricks, a Senior Vice-President of Deloitte, sworn September 26, 2019 in support hereof and attached hereto as **Appendix “M”**.

52. The total legal fees and disbursements of Blaneys, in its capacity as counsel to FN and the Receiver from May 1, 2019 to August 31, 2019, amount to \$55,051.00 together with disbursements of \$483.83 plus HST of \$7,219.54, totalling \$62,754.37 (the “**Blaney Fees**”). The time spent by Blaneys is more particularly described in the Affidavit of Chad Kopach, a partner of Blaneys, sworn September 26, 2019 in support hereof and attached hereto as **Appendix “N”**.
53. The total legal fees and disbursements of DW, in its capacity as counsel to the Receiver from April 9, 2019 to August 12, 2019, amount to \$42,864.57, inclusive of HST (the “**DW Fees**”). The Time spent by DW is more particularly described in the Affidavit of David Preger, a partner of DW, sworn September 9, 2019 in support hereof and attached hereto as **Appendix “O”**.
54. The Receiver has reviewed the Blaneys Fees and the DW Fees as set out in Appendices “N” and “O” and finds the work performed and charges to be appropriate and reasonable in the circumstances.

## **RECEIVER REQUESTS**

55. For the reasons set out above, the Receiver requests that the Court make an Order:
  - (a) approving the activities of the Receiver as described in this Seventh Report;
  - (b) approving the Transaction contemplated in the APS between the Receiver and Royal United, together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, for the sale of the Property listed in Schedule “A” to the APS and vesting the Debtors’ right, title and interest, if any, in the Property in and to the Purchaser’s Designees upon the closing of the Transaction;
  - (c) authorizing the Receiver, after the completion of the Transaction, to:

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- i) pay to CBRE its commission;
  - ii) allocate the sale proceeds from the Transaction and any surplus funds in the Receiver's accounts after satisfying all of its costs on the basis of 73% to 345 Barber and 27% to 347 Barber;
  - iii) make a distribution to FN in full satisfaction of the amount owing under its first ranking mortgages on the Property;
  - iv) make a distribution to Liahona in partial satisfaction of the amount owing under its second ranked mortgage over 345 Barber;
  - v) make a distribution to the City and the Ministry in partial satisfaction of the amount owing under their second ranked mortgage over 347 Barber;
- (d) approving the R&D;
- (e) approving the professional fees and disbursements of the Receiver, DW and Blaneys, as set out in the fee affidavits, and authorizing the Receiver to pay the professional fees from available funds;
- (f) authorizing and directing the Receiver, *nunc pro tunc*, to redact from the version of the Seventh Report served on any other party other than this Court, (i) the Receiver's comparison of Offers; (ii) the unredacted version of the APS; (iii) the Property Appraisals; (v) the Receiver's analysis of the purchase price in the APS in the context of the Property Appraisals, and (vi) the estimated allocation of sale proceeds to the secured creditors;
- (g) sealing the unredacted version of the Seventh Report, including the Confidential Appendices "A" through "G" filed with this Court from the public record until the closing of the Transaction or further order of this Court; and
- (h) such further and other relief as counsel may advise and this Honourable Court may permit.

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All of which is respectfully submitted at Ottawa, Ontario this 27<sup>th</sup> day of September, 2019.

**DELOITTE RESTRUCTURING INC.,**  
solely in its capacity as the Court-  
appointed Receiver and Manager of  
certain real property of Golden Dragon Ho  
10 Inc. and Golden Dragon Ho 11 Inc., and  
without personal or corporate liability

*Deloitte Restructuring Inc.*

Paul Casey, CPA, CA, FCIRP, LIT  
*Senior Vice-President*

John Saunders, CPA, CA, CIRP, LIT  
*Senior Vice-President*

## Appendix "A"



Court File No. 17-73967

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE )  
JUSTICE C.T. MacLachlan )  
BETWEEN: )  
FRIDAY, THE 22<sup>nd</sup>  
DAY OF SEPTEMBER, 2017

**FIRST NATIONAL FINANCIAL GP CORPORATION**

Applicant

- and -

**GOLDEN DRAGON HO 10 INC. and GOLDEN DRAGON HO 11 INC.**

Respondents

**APPLICATION UNDER** Section 47 of the  
*Bankruptcy and Insolvency Act* R.S.C. 1985, C. B-3, as amended

**APPOINTMENT ORDER  
(Interim Receiver)**

**THIS APPLICATION** made by First National Financial GP Corporation (the “**Applicant**”) for an Order pursuant to section 47 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) appointing Deloitte Restructuring Inc. (“**Deloitte**”) as interim receiver (in such capacity, the “**Receiver**”) of certain property of Golden Dragon Ho 10 Inc. and Golden Dragon Ho 11 Inc. (the “**Respondents**”) identified on the attached Schedule “A” (collectively, the “**Property**”), and sealing Confidential Exhibit “42”, being an Appraisal Report of Juteau Johnson Comba Inc. dated August 15, 2017, including Schedule “A” thereto, and Confidential

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Exhibit "45", being the Agreement of Purchase and Sale dated August 31, 2017 (collectively, the "Confidential Exhibits") of the Affidavit of Christopher Sebben sworn September 19, 2017 (the "Sebben Affidavit") from the public record until further Order of the Court, was heard this day at 161 Elgin Street, Ottawa, Ontario.

**ON READING** the Sebben Affidavit and the Exhibits thereto, including the Confidential Exhibits, and on reading the Consent of Deloitte to act as the Receiver, *and on hearing submissions of applicants counsel, no one else appearing and.*

**SERVICE**

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

**APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 47 of the *BIA*, Deloitte is hereby appointed interim receiver of the Property.

**RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

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- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage to engage contractors, tradespersons, quantity surveyors, consultants, appraisers, agents, experts, auditors, accountants, managers, including a property manager, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (d) to undertake any renovations and make any repairs to the Property necessary to ensure the Property is well maintained and rentable and is in compliance with the applicable laws and building codes;
- (e) to market available rental units, enter into new rental agreements or renew expiring rental agreements where applicable;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Respondents in respect of the Property and to exercise all remedies of the Respondents in collecting such monies, including, without limitation, to enforce any security held by the Respondents in respect of the Property;
- (g) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Respondents, for any purpose pursuant to this Order;

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- (h) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Property and to settle or compromise any such proceedings, and the authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (i) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (j) to register a copy of this Order against title to the Property;
- (k) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority in respect of the Property and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Respondents;
- (l) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

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

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Respondents in respect of the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

#### **NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY**

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Respondents in respect of the Property or against the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently

under way against or in respect of the Respondents in respect of the Property or against the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

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

#### **NO INTERFERENCE WITH THE RECEIVER**

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

#### **CONTINUATION OF SERVICES**

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Respondents or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services,

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centralized banking services, payroll services, insurance, transportation services, utility or other services to the Respondents in respect of the Property are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Respondents' current telephone numbers, facsimile numbers, internet addresses and domain names in respect of the Property, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

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



## EMPLOYEES

13. **THIS COURT ORDERS** that all employees of the Respondents shall remain the employees of the Respondents until such time as the Receiver, on the Respondents' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in, section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

14. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of

any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

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

#### **RECEIVER'S ACCOUNTS**

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

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

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

#### **FUNDING OF THE RECEIVERSHIP**

19. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

### **SERVICE AND NOTICE**

23. **THIS COURT ORDERS** that the service of documents shall be made by way of an HTML link to the documents as posted by the serving party on either the Case Website (set out below) or if time does not permit, on the serving party's own website, or as a PDF attachment where the party serving the documents is unable to create an HTML link, with HTML Links to the website for cross-referenced documents already posted there (the "**Protocol**"), and such service shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '[www.insolvencies.deloitte.ca/en-ca/GoldenDragonHo10-11](http://www.insolvencies.deloitte.ca/en-ca/GoldenDragonHo10-11)'.

24. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by

forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

25. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Respondents.
27. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal; regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
28. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

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

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

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

31. **THIS COURT ORDERS** that notwithstanding the commencement of the within Application and the appointment of the Receiver, the Applicant shall be deemed to be protecting its security, shall not be deemed to have resorted to realizing upon its security over the Property, and the equitable right of redemption in respect of the Applicant's mortgages over the real property of the Respondents identified on the attached Schedule "A" shall not be triggered.

32. **THIS COURT ORDERS** that the Confidential Exhibits shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order.

33. **THIS COURT ORDERS** that the Confidential Exhibits shall remain under seal until further Order of the Court.

*Hackel J.*

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ENTERED AT OTTAWA  
INSCRIT A OTTAWA  
ON/LE SEP 22 2017  
DOCUMENT # 0411  
IN BOOK NO. 73-13  
AU REGISTRE NO. 73-13

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**SCHEDULE "A"**

**THE PROPERTY**

Golden Dragon Ho 10 Inc.

PIN 04213-0302 LT in LRO #4

Description: PART OF LOT 18 PLAN 43586 N/S CLARENCE STREET BEING PART 1 ON 4R21669; OTTAWA. T/W RIGHT-OF-WAY AND EASEMENT OVER PART LOTS 16,17 & 18 PLAN 43586 PT 3 PLAN 4R21669 AS IN OC699531. T/W EASEMENT OVER PART LOTS 16,17 & 18 PLAN 43586 PART 4 ON 4R21669 AS IN OC699531. T/W RIGHT-OF-WAY OVER PART LOTS 16, 17 & 18 PLAN 43586 PART 2 ON 4R21669 AS IN OC699531. S/T RIGHT-OF-WAY AND EASEMENT OVER PART 1 ON 4R21669 IN FAVOUR OF PART LOTS 16, 17 & 18 PLAN 43586 PARTS 2,3 & 4 ON 4R21669 AS IN OC699531.

Golden Dragon Ho 11 Inc.

PIN 04213-0303 LT in LRO #4

Description: PART LOTS 16,17 & 18 PLAN 43586 N/S CLARENCE STREET BEING PARTS 2,3 & 4 ON 4R21669; OTTAWA S/T RIGHT-OF-WAY AND EASEMENT OVER PART 3 ON 4R21669 IN FAVOUR OF PART LOT 18 PLAN 43586 PART 1 ON 4R21669 AS IN OC699531. S/T EASEMENT OVER PART 4 ON 4R21669 IN FAVOUR OF PART LOT 18 PLAN 43586 PART 1 ON 4R21669 AS IN OC699531. S/T RIGHT-OF-WAY OVER PART 2 PLAN 4R21669 IN FAVOUR OF PART LOT 18 PLAN 43586 PART 1 ON 4R21669 AS IN OC699531. T/W RIGHT-OF-WAY AND EASEMENT OVER PART 1 ON 4R21669 IN FAVOUR OF PART LOTS 16, 17 & 18 PLAN 43586 PARTS 2,3 & 4 ON 4R21669 AS IN OC699531.



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## SCHEDULE "B"

## RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc., the interim receiver (the "Receiver") of the real property of Golden Dragon Ho 10 Inc. and Golden Dragon Ho 11 Inc. identified on Schedule "A" to the Appointment Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 22<sup>nd</sup> day of September, 2017 (the "Order") made in an action having Court file number \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the 1st day of each month after the date hereof at a notional rate per annum equal to the rate of two per cent above the prime commercial lending rate of Royal Bank of Canada from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the \_\_\_ day of \_\_\_\_\_, 20\_\_.

DELOITTE RESTRUCTURING INC., solely in its capacity as Receiver of the Property, and not in its personal or corporate capacity

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

FIRST NATIONAL FINANCIAL GP CORPORATION and

GOLDEN DRAGON HO 10 INC. and GOLDEN DRAGON HO 11 INC.

Applicant

Respondents

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding Commenced at OTTAWA

**APPOINTMENT ORDER**  
(Interim Receiver)

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Lawyers for the Applicant

**Appendix “B”**

FIRST NATIONAL FINANCIAL GP CORPORATION  
Applicant

GOLDEN DRAGON HO 10 INC. et al.  
Respondents

*Dec 21 2018*  
*Mr. Dineen*  
*Mr. G. G. G.*  
*3/12/18*  
*Handwritten signature*

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding commenced at OTTAWA

MOTION RECORD  
(Returnable December 21, 2018)

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Lawyers for the Applicant and the Interim Receiver

FILED  
CF JUSTICE AT OTTAWA  
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DU TRIBUNAL DE JUSTICE À OTTAWA

**Appendix “C”**

Court File No. 17-73967

ONTARIO  
SUPERIOR COURT OF JUSTICE

**BETWEEN:**

**FIRST NATIONAL FINANCIAL GP CORPORATION**

Applicant

and

**GOLDEN DRAGON HO 10 INC. and GOLDEN DRAGON HO 11 INC.**

Respondents

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**SIXTH REPORT OF THE INTERIM RECEIVER**

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**DATED MAY 6, 2019**

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## APPENDICES

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- K Affidavit of Chad Kopach of Blaney McMurtry LLP sworn May 6, 2019

## INTRODUCTION

1. By Order of the Ontario Superior Court of Justice (the “**Court**”) dated September 22, 2017 (the “**Appointment Order**”), Deloitte Restructuring Inc. (“**Deloitte**”) was appointed as the interim receiver (the “**Receiver**”) of certain real property of Golden Dragon Ho 10 Inc. (“**GDH 10**”) municipally known as 347 Barber Street, Ottawa, Ontario (formerly known as 347 Clarence Street, Ottawa) (“**347 Barber**”) and of certain real property of Golden Dragon Ho 11 Inc. (“**GDH 11**”) municipally known as 345 Barber Street, Ottawa, Ontario (formerly known as 345 Clarence Street, Ottawa) (“**345 Barber**”) (collectively, with 347 Barber, referred to herein as the “**Property**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. The Appointment Order authorized the Receiver to, among other things:
  - (a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) undertake any renovations and make any repairs to the Property necessary to ensure that the Property is well maintained and rentable and is in compliance with the applicable laws and building codes; and
  - (c) market available rental units, enter into new rental agreements or renew expiring rental agreements where applicable.
3. On October 20, 2017, the Applicant, First National Financial GP Corporation (“**FN**”), brought a motion to, among other things, extend the appointment of the Receiver as permitted under section 47(1)(c) of the *Bankruptcy and Insolvency Act*. In support of that motion, the Receiver filed with the Court its First Report of the Interim Receiver dated October 17, 2017 (the “**First Report**”). Based on the First Report and submissions made to the Court by counsel for FN and the Receiver on October 20, 2017, the Court granted an Order (the “**October 20 Order**”) approving the Receiver’s actions as described in the First Report, approving the Receiver’s Interim Statement of Receipts and Disbursements for the period from September 22 to October 13, 2017, and extending the appointment of the Receiver until further Order of this Court.

4. On December 20, 2017, FN and the Receiver brought a motion to, among other things, approve the Receiver's recent activities, including the Receiver's course of action with respect to the repairs to the Property and the strategy for leasing vacant units, to approve the Receiver's Interim Statement of Receipts and Disbursements for the period from September 22, 2017 to November 30, 2017 and to approve the fees and disbursements of the Receiver and its legal counsel Blaney McMurtry LLP ("**Blanneys**") from July 4, 2017 to November 30, 2017 and Dickinson Wright LLP ("**DW**") from September 20, 2017 to October 17, 2017. In support of that motion, the Receiver filed with the Court its Second Report of the Interim Receiver dated December 13, 2017 (the "**Second Report**"). Based on the Second Report and submissions made to the Court by counsel for FN and the Receiver on December 20, 2018, the Court granted an order (the "**December 20 Order**") approving the relief sought.
5. On June 11, 2018, FN and the Receiver brought a motion to, among other things, approve the Receiver's recent activities, authorize the Receiver to retain a contractor to undertake repairs on 17 currently un-rentable units (the "**17 Unit Repairs**"), seek an order discharging and deleting from title to 345 Barber a third mortgage registered as Instrument Number OC1933770 (the "**Third Mortgage**"), approve the Receiver's Interim Statement of Receipts and Disbursements for the period from September 22, 2017 to April 30, 2018 and to approve the fees and disbursements of the Receiver and its legal counsel Blanneys from December 2, 2017 to April 6, 2018, and December 1, 2017 to April 30, 2018, respectively. In support of that motion, the Receiver filed with the Court its Third Report of the Interim Receiver dated May 29, 2018 (the "**Third Report**"). Based on the Third Report and submissions made to the Court by counsel for FN and the Receiver on June 11, 2018, the Court granted an order (the "**June 11 Order**") approving the relief sought, except for the approval to engage the contractor to carry out the 17 Unit Repairs, which approval was granted but the implementation of which was not to occur until June 30, 2018 to permit the principal of the Respondents to file before that date a notice of motion providing an alternative proposal for the remediation work.
6. On June 29, 2018, the Respondents filed a Notice of Motion seeking, among other things, an Order allowing them to carry out the 17 Unit Repairs instead of the Receiver and pay the

arrears under the FN Mortgage over 345 Barber by September 1, 2018 (the “**Respondents’ Motion**”).

7. In support of the Respondents’ Motion, Chi Van Ho (“**Ho**”) swore an Affidavit dated June 29, 2018 (the “**Ho Affidavit**”) wherein he swore that evidence of ability to fund would be provided in a further affidavit. However, no additional affidavit providing evidence of funding was subsequently delivered.
8. On July 9, 2018, the Receiver brought a motion for, among other things, advice and directions regarding the Respondents’ Motion and an order declaring that the Receiver could retain the contractor recommended in its Third Report to undertake the repairs to the 17 Unit Repairs (the “**July 9 Motion**”). In support of the July 9 Motion, the Receiver filed with the Court its Supplemental Report to the Third Report dated July 3, 2018 (the “**Supplemental Third Report**”).
9. Based on the Third Report and the Supplemental Third Report and submissions made to the Court by counsel for the Receiver on July 9, 2018, the Court made an endorsement authorizing the Receiver to proceed under paragraph 3 of the June 11 Order, that being to retain the contractor recommended in the Third Report.
10. In its Fourth Report to the Court dated October 15, 2018 (the “**Fourth Report**”), the Receiver provided the Court with an update on the status of the Property and its activities and sought approval for those activities as well as the fees and disbursements of the Receiver from April 7 to September 30, 2018 and the fees and disbursements of Blaneys from May 1 to September 27, 2018. On October 25, 2018, Justice Hackland granted an Order (the “**October 25 Order**”) approving the relief sought.
11. On December 21, 2018, the Applicant and the Receiver brought a motion for, among other things, advice and direction regarding the extent to which the Receiver and Canada Revenue Agency (“**CRA**”) could engage in communications concerning certain tax evasion charges brought against Ho to the extent they relate to, or potentially relate to, the Property. In support of that motion, the Receiver filed its Fifth Report to the Court dated December 17, 2018 (the “**Fifth Report**”) which outlined the purported charges against Ho as reported in the media. In his endorsement (the “**December 21 Endorsement**”), Justice Hackland adjourned the

matter *sine die* and verbally advised the parties to agree on the wording of correspondence to CRA, and should they not agree, to schedule an appointment back before the court. A copy of the December 21 Endorsement is attached hereto as **Appendix “B”**.

12. The above noted Court Orders, Endorsements, the Receiver’s previous Reports, and this, the Interim Receiver’s Sixth Report to the Court (the “**Sixth Report**”), and other key documents have been posted on the Receiver’s website at [www.insolvincics.deloitte.ca/en-ca/GoldenDragonHo10-11](http://www.insolvincics.deloitte.ca/en-ca/GoldenDragonHo10-11).

### **PURPOSE OF REPORT**

13. The purpose of the Sixth Report is to:
- (a) provide the Court with the status of discussions with Ho’s counsel regarding the wording of correspondence to CRA;
  - (b) provide the Court with information on the current status of the Property;
  - (c) provide the Court with information on the current status of the rental of vacant units at the Property;
  - (d) seek the advice and direction of the Court with respect to the continuance of these interim receivership proceedings and provide the Court with the evidentiary basis to make an Order:
    - (i) amending the Appointment Order to expand the Receiver’s mandate to authorize it to conduct a marketing and sale process in order to realize on the Property;
    - (ii) approving the Receiver’s proposed marketing and sale process for the Property, including the terms and conditions of sale;
    - (iii) approving the Receiver enter into a Exclusive Authority to Sell Agreement (the “**Listing Agreement**”) with CBRE Limited (“**CBRE**”) to market and sell the Property;
    - (iv) approving the activities of the Receiver as described in this Sixth Report;

- (v) approving the Receiver's Interim Statement of Receipts and Disbursements for the period from September 22, 2017 to March 31, 2019; and
- (vi) approving the fees and disbursements of the Receiver from October 1, 2018 to March 31, 2019 and Blaneys from October 1, 2018 to April 30, 2019.

## TERMS OF REFERENCE

14. In preparing this Sixth Report, the Receiver has reviewed unaudited financial information and other records related to the Property provided by its property manager, CLV Group Inc., ("CLV"), information provided by third-party sources, and has held discussions with individuals involved in administering the Property (collectively, the "Information"). Except as described in this report:
- (a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information;
  - (b) some of the information referred to in this Sixth Report consists of forecasts and projections which were prepared based on estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the forecasted or projected results. Accordingly, the reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant; and
  - (c) the Receiver has prepared this Sixth Report in its capacity as a Court-appointed officer to support the Court's approval of the Receiver's activities to date, its course of action with respect to a sale of the Property, and the other relief being sought. Parties using

this report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes.

15. Unless otherwise stated, all dollar amounts contained in this Sixth Report are expressed in Canadian dollars.
16. Unless otherwise provided, all other capitalized terms not otherwise defined in this Sixth Report are as defined in the Appointment Order.
17. The Receiver has sought the advice of Blaneys, counsel to the Applicant, for general legal matters that have arisen in respect of the interim receivership. Where the Receiver has required independent legal advice, the Receiver has sought the counsel of DW.

## BACKGROUND

18. As noted in the First through Fifth Reports, the Property is comprised of two adjoining six-story multi-unit apartment buildings that consist of 110 units in total. Eighty of these units are located in 345 Barber, and the remaining 30 units are located in 347 Barber. These buildings operate as one complex as they are connected on every floor except the basement, and they share common areas and facilities. Of the 110 units, 30 units are to be used for affordable housing purposes pursuant to agreements with the City of Ottawa (the "City") and the Ontario Ministry of Housing (the "MOH"). These 30 units are referred to herein as below market rent ("BMR") units.
19. Upon the appointment of the Receiver, the Property was approximately 60% occupied. The low occupancy was primarily the result of the Respondents' plan (without FN's knowledge or consent) to convert 345 Barber to student housing by increasing the number of bedrooms in certain units and by making certain modifications to the lobby and the basement. In order to carry out this plan, the Respondents arranged for certain market rate tenants to move from 345 Barber to 347 Barber in order to free up units so that renovations could be undertaken. In addition, alterations to the building had been started in the lobby, the basement, and certain units on the upper floors of 345 Barber. Much of this work remained substantially unfinished as of the date of the Appointment Order.

20. The Second through Fourth Reports detailed, among other things, repair work the Interim Receiver had undertaken at the Property (including repairs to the roof, fire doors, the elevator, the boiler, etc.), a strategy to offer up vacant units in 345 Barber to non-BMR Unit tenants in 347 Barber, and the categorization of vacant units in the Property in need of repair, so that certain of those units requiring minimal work could be repaired and rented out. The Second Report also set out a plan for completion of renovations to the lobby that had been started by the Respondents. The Third Report set out the proposals received from contractors to repair those 17 units needing significant repairs, and the Receiver's recommendation to proceed with Proposal #1 submitted by a local contractor (the "**Contractor**").

#### DISCUSSIONS WITH CHI VAN HO CONCERNING THE WORDING OF CORRESPONDENCE TO CRA

21. By way of background that led to the making of the December 21 Endorsement, given that the Property had been stabilized and occupancy had returned to near maximum levels, FN had contemplated a scenario whereby it would enter into a forbearance agreement with Ho that would involve terminating the interim receivership proceedings and putting the Property back in Ho's possession, subject to certain controls and constraints. However, upon learning of certain tax evasion charges brought against Ho, FN and the Receiver wanted to understand the nature of those charges, the actions being taken by CRA and the extent of any impact those actions would have on the Property should possession and control of it be returned to Ho.
22. Subsequent to the issuance of the December 21 Endorsement, on January 8, 2019 Eric Golden of Blaneys ("**Golden**") wrote to Martin Diegel ("**Diegel**"), counsel for Ho, to reconfirm the requirement to come to agreement on the wording of correspondence to CRA (the "**January 28 Email**"). In the alternative, Golden, acting on behalf of FN, inquired if Ho would direct the Receiver to market and sell the Property. Diegel advised on January 10, 2019 that he would consult with Ho and get instructions. A copy of this email exchange is attached hereto as **Appendix "C"**.



23. Having received no response by January 23, 2019, Golden again wrote to Diegel seeking a response by January 25, 2019 to his January 8 Email, failing which Golden would provide proposed wording for the letter to CRA.
24. In email correspondence dated January 29, 2019, Diegel responded to the January 8 Email that Ho was prepared to agree to a sale of the Property but wished to do it outside of the receivership proceeding (the "**January 29 Email**"). He further advised that Ho had identified a party who was interested in purchasing the property and he was in the process of seeking credit approval from FN to assume the FN mortgages over the Property. FN later advised that it had not been approached by that party to seek approval to assume the FN mortgages.
25. On February 20, 2019, Golden wrote to Diegel to advise, among other things, that FN was not prepared to provide Ho with any role in a marketing and sale process for the Property given his pending tax fraud charges (the "**February 20 Email**"). As a result, Golden advised that it would provide a draft letter to CRA. A copy of the February 20 Email which includes the January 29 Email is attached hereto as **Appendix "D"**.
26. On April 11, 2019, Golden wrote to Diegel and provided a proposed letter to CRA (the "**April 11 Email**"). Diegel responded on that date that he was of the opinion that it was not appropriate to write to CRA. A copy of the April 11 Email is attached hereto as **Appendix "E"**.
27. As a result of the parties not agreeing on the wording of the letter to CRA, the parties were to appear back in front of Justice Hackland with their respective letters so that he could make a determination.
28. While these discussions were ongoing with Diegel, Liahona Mortgage Investment Corp. ("**Liahona**"), the second mortgagee over 345 Barber, having been provided with updated appraisals for the Property that reflect the recent repairs and the increased occupancy, advised FN that it did not want Ho involved in any sale process and that it was prepared to bring a motion to expand the Receiver's powers to authorize it to conduct a marketing and sale process. As a result, FN has advised that it is not continuing to work with Ho towards a mutually agreeable letter to CRA at this time.

## RECEIVER'S ACTIVITIES SINCE THE FIFTH REPORT

29. Since the date of the Fifth Report, the Receiver has undertaken the following activities in accordance with the terms of the Appointment Order:
- (a) Followed up with CLV to rent the vacant units in 345 Barber to the general public, and to rent the vacant units in 347 Barber to BMR tenants identified through various City programs;
  - (b) Approved and directed CLV to complete certain renovations/repairs to the Property, including the removal of existing mailboxes from the sub-basement and the installation of new mailboxes in the lobby (as originally described in the Fifth Report), and certain necessary repairs that were identified as the result of the annual fire inspection;
  - (c) Provided various information concerning the receipts and disbursement for the Property to Liahona;
  - (d) Assisted FN in obtaining two appraisal reports for the Property, one being an updated appraisal prepared by Juteau Johnson Comba Inc. effective January 15, 2019 (who had previously prepared an appraisal for FN effective as of August 9, 2017), and a second report being a new appraisal prepared by Veritas Valuation Inc. effective as of January 21, 2019. These appraisals were commissioned by FN in order to determine the effective impact that the repairs to the Property and resulting increased occupancy and higher rental rates had on the value of the Property;
  - (e) Reviewed the monthly Property accounting prepared by CLV, and prepared the Receiver's Interim Statement of Receipts and Disbursements;
  - (f) Prepared cash flow forecasts in order to determine potential repayments of Receiver's certificate borrowings to FN based on a continuation of the interim receivership without conducting a marketing and sale process. The Interim Receiver's Forecast Cash Flow from April 2019 to December 2019 is attached hereto as **Appendix "F"**;
  - (g) Responded to information requests from parties interested in the Property;
  - (h) Responded to information requests from FN;

- (i) Responded to tenant and creditor inquiries;
- (j) Held discussions with FN and Liahona to determine the most appropriate path forward for the Property;
- (k) Prepared draft Terms and Conditions of Sale for the proposed sale of the Property, given Liahona's intention to bring a motion to have the Receiver market and sell the Property; and
- (l) Contacted real estate brokers to solicit proposals to market and sell the Property.

### **RENTAL STATUS OF THE PROPERTY**

- 30. As at the date of the Appointment Order, there were 65 occupied units (out of 110 total units), due to the fact that many of the 45 unoccupied units were in the midst of repairs/renovations and were therefore un-rentable. In addition, the Receiver was appointed during the fall of 2017, which CLV advised was a slow rental period as compared to the spring period which tends to provide the busiest rental market.
- 31. All of the contemplated repairs to rental units were completed by mid-October 2019. As discussed in the Third Report, three gutted units in 345 Barber (100, 106 and 108) remain un-renovated due to the substantial work and associated costs that would be required to bring them back into rentable condition.
- 32. As at April 1, 2019, there were 103 units rented, reflecting an occupancy rate of 96% based on rentable units and 94% based on total units. CLV has advised the Receiver that the existing occupancy rate in a building such as this is normal and that an occupancy rate of 100% is rare if not impossible to maintain for any significant period of time.
- 33. As of the date of the Appointment Order, the Property was generating monthly rental income of \$50,655 (not including monthly affordability payments payable by the City and the MOH, which are monthly subsidies paid in respect of the BMR units). As reported in the Fourth Report, as at October 1, 2018, the Property was generating monthly rental income of \$72,590. As of April 1, 2019, the property was generating monthly income of \$89,964, a 78% increase over the monthly income at the time of the Receiver's appointment.

34. As of April 1, 2019, there were 29 units leased by BMR tenants, representing an increase of 6 since the date of the Appointment Order, and just one short of the required number of tenants under the Municipal Housing Project Facilities Agreement with the City and the Provincial Contribution Agreement with the MOH, as amended (collectively, the “**BMR Agreements**”). In addition, all but one of those tenants is located in 347 Barber, which was the intention under the BMR Agreements. CLV continues to move towards reaching 30 BMR tenants and having them all located in 347 Barber.

#### **LIAHONA’S REQUEST FOR A MARKETING AND SALE PROCESS**

35. Liahona has advised the Receiver that it wishes that the Property be sold in order that it can attempt to realize on its loan to GDH11. The Receiver understands that Liahona has not received any payments since Liahona advanced its loan with a principal balance of \$2.9 million to GDH 11 secured by a second mortgage over 345 Barber.
36. As such, Liahona has advised the Receiver that it will be making a motion to expand the Receiver’s mandate to authorize it to conduct a marketing and sale process in order to realize on the Property. In terms of the current economics, Liahona’s position is understandable based on the cash flow being generated by the Property that indicates that there is no prospect in the foreseeable future for Liahona to see any payments from the Receiver against its loan.
37. FN has advised Liahona and the Receiver that it does not oppose the Property being sold subject to the following conditions:
- (i) FN reserves the right to oppose any sale if it deems the sale prices for the mortgaged properties, either collectively and/or by way of allocation of purchase price between the two buildings, to be insufficient;
  - (ii) The fees and costs of the Receiver and its counsel with respect to the sale are to be in priority to Liahona’s mortgage over 345 Barber (as per the Receiver’s charge in the Appointment Order); and
  - (iii) The fees and costs relating to the sale will be allocated on a 70/30 percentage split between 345 Barber (70%) and 347 Barber (30%), subject to their being sufficient proceeds allocated to 347 Barber to pay out the two FN mortgages in full, failing

which, if FN does not oppose a sale, all fees and costs relating to the sale of both properties are to be allocated to 345 Barber with the priority set out in (ii) above.

38. The Receiver understands that Liahona has agreed to these conditions.

#### THE RECEIVER'S PROPOSED MARKETING AND SALE PROCESS

39. Should the Court make an order expanding the Receiver's powers and direct it to conduct a marketing and sale process, the Receiver proposes to engage a real estate broker to conduct a "no pricing" marketing process with a set bid date by which offers are due.

40. In that regard, the Receiver solicited proposals from four real estate brokers that have expertise marketing similar properties, have knowledge of the local area and have a significant contact list to draw upon to market the Property in addition to advertising it to the general business community.

41. Based on the proposals received, the Receiver is recommending, subject to this Court's approval, to enter into a Listing Agreement with CBRE, a draft unexecuted copy of which is attached hereto as **Appendix "G"**. CBRE has significant experience in selling similar apartment buildings, has a strong presence both locally and nationally, and has previously acted as a listing broker in Court-supervised sales. It also proposed a very competitive fee for this listing. In addition, CBRE was previously the listing broker for this Property in 2013, and therefore already has intimate knowledge of the Property (and its social housing component) and could update its marketing material very quickly. The key terms of the Listing Agreement are:

- Term: the agreement will expire on September 30, 2019
- Commission Rate: 1.25%
- CBRE shall perform the following services:
  - Perform financial analysis and valuation work on the Property; \*
  - Assemble and package due diligence materials prior to marketing launch;
  - Prepare marketing materials for use in promoting the Property;

- Develop an appropriate marketing and disposition strategy for the Property that conforms to the Terms and Conditions of Sale as approved by the Court;
- Advise the Receiver of the various steps in achieving the sale of the Property;
- Compile a list of potential investors that may be interested in acquiring the Property;
- Execute a marketing program for the Property;
- Day-to-day management of the disposition program, including marketing, coordination of due diligence, assisting the Receiver and third parties, facilitating tours and information requests, and other duties as required;
- Receiving expressions of interest for the Property and / or individual properties;
- Advise the Receiver with respect to such interest and offers;
- Assist the Receiver in negotiations, structuring and documentation of the transaction with the purchaser(s) until closing;
- Provide regular written reports to the Receiver on the status and progress of CBRE's marketing and sale efforts; and
- Provide such other advice or services as may be required in order to carry out its responsibilities.

42. CBRE's proposed marketing process (the "Marketing Process") involves the following:

- preparing a teaser document for the Property that will be distributed by mail and email to its database of contacts, including over 5,000 institutions, private investors, accountants and lawyers;
- preparing a Confidential Information Memorandum ("CIM") that contains details of the Property including an income model analyzing rents, market rents, and all expense items;
- advertising the Property without a list price so as to let the market determine the value of the Property;
- establishing a virtual data room and uploading of relevant information on the Property;

- having parties execute a confidentiality agreement prior to being provided access to the virtual data room and the CIM;
- arranging for tours of the Property by qualified prospective purchasers; and
- providing detailed reporting of the process.

43. The Receiver has prepared draft Terms and Conditions of Sale, attached hereto as **Appendix "H"**. A summary of the key terms and conditions are as follows (capitalized terms below are as defined in the Terms and Conditions of Sale):

- Interested parties must execute a confidentiality agreement before being provided access to the CIM and virtual data room, and access to conduct supervised site visits;
- Offers will be in the form of an Agreement of Purchase and Sale form ("**Offer Form**") drafted by the Receiver that reflects the Terms and Conditions of Sale. The Offer Form will include that the Property is being sold on an "as is, where is" basis without any representation, warranty or condition given by the Receiver;
- The Receiver will set an Offer Due Date that is approximately 8 weeks from the date that it commences the marketing process. The Offer Due Date may be adjusted in the sole discretion of the Receiver based on discussions with the Listing Broker;
- Offers are to be accompanied by a deposit of no less than 1% of the purchase price;
- Offers submitted constitute a firm offer and cannot be revoked unless a written notice of withdrawal of the Offer is transmitted to the Receiver prior to the Offer Due Date;
- An Offeror who submits an Offer which the Receiver determines has a reasonable prospect of completing a transaction in respect of the purchase of the Property will be designated a "Qualified Offeror" and will be promptly notified of such designation by the Receiver. All Qualified Offerors must be able to provide reasonable evidence of their ability to carry out all of the terms and conditions of their Offer within five (5) business days following a request from the Receiver to that effect. The Receiver may seek clarifications with respect to any and all Offers;

- The highest or any Offer will not necessarily be accepted and the Receiver reserves the right to reject any or all Offers, to request the resubmission of Offers, to exclude from the solicitation of Offers any or all of the Assets and to dispose of the Assets in any manner it deems appropriate. In the event any submitted Offer is rejected, each such Offeror will be notified by the Receiver within twelve (12) business days of the Offer Due Date and any Deposit posted by any such unsuccessful Offeror will be promptly returned;
  - An Offer will be determined to be accepted by the Receiver when the Receiver has executed the Offer Form, at which point the Offer Form will represent a definitive agreement of purchase and sale between the Receiver and the Qualified Offeror for the sale of the Property on the Closing Date (as this term is defined hereinafter);
  - The agreement of purchase and sale will be subject to the Receiver obtaining the Court's approval to enter into the transaction and the issuance of an Approval and Vesting Order; and
  - The closing of the transaction will occur no later than 14 days after the Approval and Vesting Order has been made, or such other date as agreed to among the parties, and upon the delivery by the Receiver to the Purchaser of a Receiver's certificate certifying that all conditions precedent in the agreement of purchase and sale have been satisfied or waived and that the balance of the Purchase Price has been paid in full.
44. Should the Court expand the Receiver's powers to authorize it to market and sell the property, the Receiver is seeking the Court's approval of the proposed sale process herein above described including approval to execute the Listing Agreement.

#### STATEMENT OF RECEIPTS AND DISBURSEMENTS

45. Attached hereto as **Appendix "I"** is the Interim Statement of Receipts and Disbursements for the interim receivership for the period September 22, 2017 to March 31, 2019 (the "R&D"). The R&D includes the rental receipts received into the property management



account and the disbursements made by the Receiver from its trust account. The R&D separates out the receipts and disbursements between September 22, 2017 and September 30, 2018, which receipts and disbursements were accepted and approved in the December 20 Order, the June 11 Order and the October 25 Order, and the receipts and disbursements between October 1, 2018 and March 31, 2019, which reflects the Receiver's receipt and disbursement activity since the Fourth Report.

46. Since the Fourth Report, the Receiver has borrowed \$175,000 from FN by way of Receiver's Certificates to fund repairs at the Property, bringing the Receiver's total borrowings to \$500,000. Of that funding, \$16,623 was returned to FN as it initially anticipated that the Receiver would require funding to engage appraisal firms to prepare appraisals of the Property. However, FN eventually engaged and paid the appraisal firms directly resulting in the return of funds to FN.
47. Total cash receipts reported in the R&D from tenants rent, roof top cellular equipment, MOH funding, Receiver's certificates, laundry and miscellaneous revenue are \$1,914,162. Total disbursements are \$1,811,107, which include, but are not limited to, repairs and maintenance, insurance, property management fees, consultant fees, utilities, legal fees and Receiver Fees. Net cash on hand as of March 31, 2019 is \$103,055.

#### PROFESSIONAL FEES

48. The Receiver and its legal counsel have maintained detailed records of their professional time and costs since the issuance of the Appointment Order. Pursuant to paragraph 17 of the Appointment Order, the Receiver and its legal counsel were directed to pass their accounts from time to time before a judge of the Court.
49. The total fees of the Receiver during the period from October 1, 2018 to March 31, 2019, amount to \$73,630.19 together with disbursements of \$nil plus HST of \$9,572, totaling \$83,203 (the "Receiver Fees"). The time spent by the Receiver is more particularly described in the Affidavit of Hartley Bricks, a Senior Vice-President of Deloitte, sworn May 1, 2019 in support hereof and attached hereto as **Appendix "J"**.

50. The total legal fees and disbursements of Blaneys, in its capacity as counsel to FN and the Receiver from October 1, 2018 to April 30, 2019, amount to \$70,162 together with disbursements of \$3,177 plus HST of \$9,455, totaling \$82,794 (the “**Blaney Fees**”). The Time spent by Blaneys is more particularly described in the Affidavit of Chad Kopach, a partner of Blaneys, sworn May 6, 2019 in support hereof and attached hereto as **Appendix “K”**.
51. The Receiver has reviewed the Blaney Fees as set out in Appendix “K” and finds the work performed and charges to be appropriate and reasonable in the circumstances.

### RECEIVER REQUESTS

52. For the reasons set out above, the Receiver requests that the Court make an Order:
- (a) expanding the Receiver’s mandate to authorize it to conduct a marketing and sale process in order to realize on the Property;
  - (b) authorizing the Receiver to execute the Listing Agreement with CBRE;
  - (c) approving the Receiver’s proposed marketing and sale process;
  - (d) approving the activities of the Receiver as described in this Sixth Report;
  - (e) approving the R&D;
  - (f) approving the professional fees and disbursements of the Receiver and Blaneys, as set out in the fee affidavits, and authorizing the Receiver to pay the Receiver Fees from available funds; and
  - (g) such further and other relief as counsel may advise and this Honourable Court may permit.

All of which is respectfully submitted at Ottawa, Ontario this 6<sup>th</sup> day of May, 2019.

**DELOITTE RESTRUCTURING INC.**,  
solely in its capacity as the Court-  
appointed Interim Receiver of certain real  
property of Golden Dragon Ho 10 Inc. and  
Golden Dragon Ho 11 Inc., and without  
personal or corporate liability

*Deloitte Restructuring Inc.*

Paul Casey, CPA, CA, FCIRP, LIT  
*Senior Vice-President*

John Saunders, CPA, CA, CIRP, LIT  
*Senior Vice-President*

**Appendix “D”**

Court File No. 17-73967

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE	)	TUESDAY, THE 21 <sup>ST</sup>
	)	
JUSTICE HACKLAND	)	DAY OF MAY, 2019

B E T W E E N:

**FIRST NATIONAL FINANCIAL GP CORPORATION**

Applicant

- and -

**GOLDEN DRAGON HO 10 INC. and GOLDEN DRAGON HO 11 INC.**

Respondents

APPLICATION UNDER Section 47 of the *Bankruptcy and Insolvency Act*  
R.S.C. 1985, C. B-3, as amended

**EXPANDED POWERS ORDER**

THESE MOTIONS by: (a) Liahona Mortgage Investment Corp. “Liahona”); and (b) Deloitte Restructuring Inc., in its capacity as interim receiver of certain real property of the Respondent Golden Dragon Ho 10 Inc., municipally known as 347 Barber Street, Ottawa, Ontario, and of certain real property of the Respondent Golden Dragon Ho 11 Inc., municipally known as 345 Barber Street, Ottawa, Ontario, were heard this day at 161 Elgin Street, in Ottawa, Ontario.

ON READING Liahona’s Motion Record and the Affidavit of Aaron Rumley sworn May 13, 2019 and the Motion Record and Sixth Report of Deloitte Restructuring Inc. dated May 6, 2019 (the “Sixth Report”), and upon hearing the submissions of counsel for Liahona, counsel for

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Deloitte Restructuring Inc., counsel for First National Financial GP Corporation (“FN”) and counsel for the Respondents, no one else appearing, although served as set out in the affidavit of service of Sharron Eaton sworn May 14, 2019, filed, and the affidavit of service of Laura Micoli sworn May 10, 2019, filed,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of Liahona’s Notice of Motion and Motion Record is hereby abridged and validated so that Liahona’s motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record of Deloitte Restructuring Inc. is hereby abridged and validated so that the motion of Deloitte Restructuring Inc. is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

3. **THIS COURT ORDERS** that the status and mandate of Deloitte Restructuring Inc. as interim receiver pursuant to the Appointment Order dated September 22, 2017 (the “**Appointment Order**”), as extended by the Order dated October 20, 2017, is hereby varied and amended as hereinafter set out.

4. **THIS COURT ORDERS** that pursuant to section 101 of the *Court of Justice Act*, Deloitte Restructuring Inc. is hereby appointed as receiver and manager (in such capacities, the “**Receiver**”), without security, of the lands and premises legally described in Schedule “A” of the Appointment Order, the business operated thereon (the “**Business**”), and all proceeds thereof

(collectively, the “Property”). For greater certainty, all references to the “Receiver” in the Appointment Order shall be deemed to refer to the “Receiver” as defined herein and all references to “Property” in the Appointment Order shall be deemed to refer to “Property” as defined herein.

#### **SIXTH REPORT**

5. **THIS COURT ORDERS** that the marketing and sale process in respect of the Property described in the Sixth Report, including the engagement of CBRE Limited as listing broker, is hereby approved.

6. **THIS COURT ORDERS** that the activities and proposed activities of the Receiver described in the Sixth Report are hereby approved.

7. **THIS COURT ORDERS** that Receiver’s interim statement of receipts and disbursements for the period September 22, 2017 to March 31, 2019 contained in the Sixth Report is hereby approved.

8. **THIS COURT ORDERS** that the fees and disbursements of the Receiver as set out in the Affidavit of Hartley Bricks, sworn May 1, 2019 contained in the Sixth Report and the fees and disbursements of Blaney McMurty LLP as set out in the Affidavit of Chad Kopach sworn May 6, 2019 contained in the Sixth Report are hereby approved.

#### **RECEIVER’S POWERS**

9. **THIS COURT ORDERS** that in addition to the powers set out in paragraph 3 of the Appointment Order, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

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- (a) to manage, operate, and carry on the Business, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the Business, or cease to perform any contracts of the Respondents in relation to the Property;
  - (b) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the Business or any part or parts thereof;
  - (c) to settle, extend or compromise any indebtedness owing to the Respondents in relation to the Property;
  - (d) subject to paragraphs 5 and 6 hereof, to market any or all of the Property, advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
  - (e) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
    - (i) without the approval of this Court in respect of any transaction not exceeding \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; and
    - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (f) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;



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- (g) to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondents in relation to the Property, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondents in relation to the Property;
- (h) to exercise any shareholder, partnership, joint venture or other rights which the Respondents may have in relation to the Property; and
- (i) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

#### **PIPEDA**

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

identical to the prior use of such information by the Respondents, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

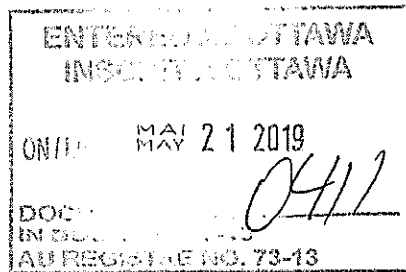
**CONTINUING EFFECT OF APPOINTMENT ORDER**

11. **THIS COURT ORDERS** that except as otherwise varied and amended by this Order, all other terms of the Appointment Order shall remain in full force and effect.

12. **THIS COURT ORDERS** that notwithstanding (i) the variation and amendment of the status and mandate of the interim receiver Deloitte Restructuring Inc. as provided for in this Order, (ii) any other term(s) of this Order, and (iii) FN not opposing this Order, FN shall still be deemed to be protecting its security over the Property, shall not be deemed to have resorted to realizing upon its security over the Property, and the equitable right of redemption in respect of FN's mortgages over the lands and premises legally described in Schedule "A" to the Appointment Order shall not be triggered.

*Racklaed S.*

TORONTO 58347-2 1605135v10



FIRST NATIONAL FINANCIAL GP CORPORATION  
Applicant

-and-

GOLDEN DRAGON HO 10 INC. et al.  
Respondents

Court File No. 17-73967

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
PROCEEDING COMMENCED AT  
OTTAWA

**EXPANDED POWERS ORDER**

**DICKINSON WRIGHT LLP**  
Barristers & Solicitors  
199 Bay Street  
Suite 2200, P.O. Box 447  
Commerce Court Postal Station  
Toronto, Ontario, M5L 1G4

**DAVID P. PREGER (36870L)**  
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**SAHAR CADILI (588470)**  
Email: [scadili@dickinsonwright.com](mailto:scadili@dickinsonwright.com)  
Tel: (416) 646-6875  
Fax: (844) 670-6009

Lawyers for the Receiver, Deloitte Restructuring Inc.

TORONTO 58347-2 1601560v8

**Appendix “E”**

**OFFER TO PURCHASE**

*(PINs 04213-0302 (LT) and 04213-0303 (LT)- 347 and 345 Barber Street, Ottawa)*

**TO: DELOITTE RESTRUCTURING INC.** in its capacity as court-appointed receiver and manager (the “**Receiver**” or “**Vendor**”), without security, of certain real property of Golden Dragon Ho 10 Inc. (“**GDH10**”), municipally known as 347 Barber Street, Ottawa, Ontario, and of certain real property of Golden Dragon Ho 11 Inc. (“**GDH11**”, and collectively with GDH11, the “**Debtors**”), municipally known as 345 Barber Street, Ottawa, Ontario, and the business operated thereon and all proceeds thereof pursuant to an Order of the Honourable Justice Hackland of the Ontario Superior Court of Justice, dated May 21, 2019 in Court File No. 17-73967 at Toronto (the “**Expanded Powers Order**”), and not in its personal capacity or corporate capacity.

**1. Offer to Purchase**

The undersigned, Royal United Investments Limited (the “**Purchaser**”), hereby offers to purchase from and through the Vendor all of the right, title and interest in and to the Property (hereinafter defined) which the Vendor is entitled to sell pursuant to the Expanded Powers Order at the purchase price set out herein and upon and subject to the terms hereof.

**2. Definitions**

In this Offer and the Agreement arising from the acceptance hereof, the following terms have the meanings respectively ascribed to them:

“**Affordable Housing Agreements**” means the two agreements pertaining to affordable housing at the Property, registered on title to the Property as Instrument numbers OC709181 and OC578037;

“**Agreement**”, “**the Agreement**” or “**this Agreement**” means the agreement of purchase and sale resulting from the acceptance of the Offer by the Vendor.

“**Approval**” in relation to the Court means the making of an appropriate Order of the Court in respect of the particular matter submitted for approval approving the action or proposed action of the Vendor on terms satisfactory to the Vendor.

“**Buildings**” means the building(s), if any, situate on the Lands (as hereinafter defined) together with all other structures situate thereon, including all improvements thereto and all fixtures forming a part thereof.

“**Business Day**” means a day other than Saturday, Sunday or a statutory holiday or any other day upon which the Vendor is not open for the transaction of business throughout normal business hours at its principal office.

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“**Closing**” or “**Closing Date**” has the meaning ascribed thereto in Section 19 thereof.

“**Condition Date**” has the meaning ascribed thereto in Section 5 hereof.

“**Court**” means the Ontario Superior Court of Justice and includes a judge, master or registrar of that court and any appellate court judge having jurisdiction in any particular matter.

“**Deposits**”, the “**First Deposit**” and the “**Second Deposit**” have the meaning ascribed thereto in Section 3(a) and 3(b) hereof.

“**Environmental Laws**” has the meaning ascribed thereto in Section 26 hereof.

“**Hazardous Substances**” means any contaminant, pollutant, dangerous substance, potentially dangerous substances, noxious substance, toxic substance, hazardous waste, flammable material, explosive material, radioactive material, urea-formaldehyde foam insulation, asbestos, PCBs radiation and any other substance, material, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or pollutant, in or pursuant to any Environmental Laws.

“**HST**” has the meaning ascribed thereto in Section 18 hereof.

“**Indemnitees**” has the meaning ascribed thereto in Section 26 hereof.

“**Lands**” means the lands legally described in Schedule “A” attached hereto.

“**Lease(s)**” means collectively, all leases, agreements to lease, tenancies, licenses, and any other rights of occupation of space in the Buildings or on the Lands, if any.

“**Material Documents**” includes copies of all architectural drawings, site plans relating to the Property, existing plan of survey, if any, the Lease(s), if any, and operating statements for the Building, if any, to the extent that such Material Documents are in the possession of the Vendor.

“**Offer**”, “**the Offer**” or “**this Offer**” means the offer to purchase the Property made by the Purchaser and contained in and comprised of this document.

“**Property**” means collectively, the Lands and Buildings, if any.

“**Purchase Price**” has the meaning ascribed thereto in Section 3 hereof.

“**Purchaser’s Condition**” has the meaning ascribed thereto in Section 5 hereof.

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“Rent Roll” means a rent roll in respect of the Property dated and signed by the Vendor.

“Vesting Order” has the meaning ascribed thereto in Section 7 hereof.

### 3. Purchase Price

The purchase price for the Property shall be [REDACTED] payable in lawful money of Canada (the “Purchase Price”), subject to the adjustments hereinafter referred to in Section 9 hereof, and paid by the Purchaser as follows:

- (a) a deposit (the “First Deposit”) in the amount of [REDACTED] shall be delivered with submission of this Offer by certified cheque, irrevocable wire transfer or bank draft drawn on an account at a Canadian chartered bank or trust company payable to the Vendor;
- (b) a deposit (the “Second Deposit”, and combined with the First Deposit, the “Deposits”), which shall not, with the First Deposit, be less than 5% of the Purchase Price, shall be delivered within two Business Days of the waiver of the Purchaser’s Condition (as hereinafter defined); and,
- (b) the balance of the Purchase Price for the Property shall be paid, subject to the adjustments hereinafter referred to, to the Vendor on the Closing Date by irrevocable wire transfer to the Vendor’s lawyers (or as the Vendor or its lawyers may direct).

### 4. Deposits

The Deposits shall be held in trust by the Vendor and shall be:

- (a) returned to the Purchaser without interest or deduction if the Vendor does not accept this Offer; or,
- (c) credited to the Purchaser as an adjustment against the Purchase Price on the Closing Date if the purchase and sale of the Property is completed pursuant to the Agreement; or,
- (d) refunded to the Purchaser with interest and without deduction if the purchase and sale of the Property is not completed pursuant to the Agreement, provided that the Purchaser is not in default under this Offer or under the Agreement; or,

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- (e) retained by the Vendor as a genuine pre-estimate of liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under this Offer, the Agreement and at law, including offering the Property for sale to another person, if the purchase and sale of the Property is otherwise not completed pursuant to this Offer and the Agreement, as a result of the Purchaser's breach hereunder.

##### 5. Purchaser's ESA Condition

Notwithstanding anything to the contrary herein contained, the Agreement is conditional to the Purchaser until 5:00 o'clock p.m. (Toronto time) on that date which is the 15<sup>th</sup> day following the Vendor's acceptance of this Offer (the "Condition Date") upon the Purchaser receiving an updated Phase I Environmental Site Assessment ("ESA") for the Property, prepared by McIntosh Perry Limited (the "Environmental Consultant"), which i) discloses no new environmental risk or contaminants beyond any potential issues mentioned in the ESA conducted by the Environmental Consultant in its report dated December 20, 2017, and ii) concludes that no Phase II ESA is warranted, all to the satisfaction of the Purchaser (the "Purchaser's Condition").

Within three (3) Business Days after the Vendor's acceptance of this Offer, the Purchaser, at its own expense, shall retain the services of the Environmental Consultant to undertake the ESA. Within three (3) Business Days of the Vendor's acceptance of this Offer, the Vendor shall provide a current Rent Roll and authorizations to all relevant governmental authorities having jurisdiction over the Property allowing the release of any relevant file information to the Purchaser or its solicitors but expressly not allowing or authorizing any inspections of the Property.

Access to the Property shall be granted to the Purchaser and its agents and representatives in order for the Purchaser to conduct such tests, inspections and investigations as the Environmental Consultant deems necessary or advisable for the purposes of preparing the required ESA; provided however that the Purchaser shall remain responsible to remediate any damage to the Property caused by it or by those for whom it is in law responsible occasioned during the course of such tests, inspections and investigations.

In the event the ESA is not completed by the Condition Date, the Purchaser shall have the right to extend the Condition Date from time to time to allow for completion of the ESA, provided that the total Purchaser's Condition period shall not exceed thirty (30) days following the Vendor's acceptance of this Offer.

The Purchaser's Condition is for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time on or before the Condition Date, any such waiver to be made in writing by the Purchaser or its



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solicitors. In the event that the Purchaser has not, on or before the Condition Date, as may have been extended, waived the Purchaser's Condition or provided the Vendor with written confirmation that the Purchaser's Condition has been satisfied, this Agreement shall be null and void and the First Deposit shall be returned to the Purchaser with interest and without deduction and the Vendor and the Purchaser shall have no further obligations to each other with respect hereto.

6. **Acceptance of Offer**

The Purchaser agrees that no agreement for the purchase and sale of the Property shall result from this Offer unless and until this Offer has been accepted by the Vendor and approved by the Court in accordance with the provisions of Section 7 hereof. The Purchaser agrees that this Offer shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o'clock p.m. (Toronto time) on August 28, 2019, after which time, if not accepted by the Vendor, this Offer shall be null and void and the First Deposit shall be returned to the Purchaser in accordance with Section 4(a) hereof. The Vendor shall indicate the date on which it has accepted this Offer in the space provided on the execution of this Offer.

7. **Court Approval**

The Purchaser hereby acknowledges and agrees that the sale of the Property is by Order of, and is subject to, the Approval of the Court. The Vendor shall, forthwith after the waiver of the Purchaser's Condition, bring a motion to the Court for Approval of the Agreement and an order vesting title to the Property in the Purchaser (the "Vesting Order"). The Vendor shall diligently pursue such motion on notice to the Purchaser and shall promptly notify the Purchaser of the disposition thereof. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the Purchaser's power as the Vendor may reasonably require to obtain Approval of the Agreement. If the Court shall not have granted Approval of the Agreement within twenty (21) days of the Purchaser's waiver of the Purchaser's Condition, the Agreement shall automatically be terminated. If the Agreement is terminated under any provision of this Section, the Deposits and any interest earned thereon shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder.

8. **Capacity of Receiver**

The Vendor, by acceptance of the Offer, is entering into the Agreement solely in its capacity as the as court-appointed receiver and manager of the Property and not in its personal or any other capacity. Any claim against the Vendor shall be limited to and only enforceable against the Property and shall not apply to its personal property and/or any assets held by it in any other capacity. The Vendor shall have no personal or corporate liability of any kind, whether in contract or in

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tort or otherwise. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Property.

9. **Adjustments**

The Purchase Price for the Property shall be adjusted as of the Closing Date in respect of realty taxes, flat/fixed water and sewer rates and charges, if any, prepaid rents and security deposits received by the Receiver and all other items usually adjusted with respect to properties similar to the Property that apply save and except for rent or any matters related to the Lease(s), if any, other than prepaid rents and security deposits received by the Receiver. Such adjustments shall be pro-rated where appropriate for the relevant period on the basis of the actual number of days elapsed during such period to the Closing Date itself to be apportioned to the Purchaser. There shall be no adjustment in respect of rent or other moneys payable to the Vendor under the Lease(s), if any, in respect of periods prior to the Closing which remain unpaid as at Closing

10. **Termination of Agreement**

Notwithstanding anything to the contrary contained in this Agreement, if at any time or times prior to the Closing Date, the Vendor is unable to complete this Agreement as a result of any action taken by an encumbrancer, any action taken by the present registered owner, the refusal by the present registered owner, to take any action, the exercise of any right by the present registered owner or other party which is not terminated upon acceptance of this Agreement, a certificate of pending litigation is registered against the Property, a court judgment or order is made, or, if the Purchaser submits valid title requisition which the Vendor is unable or unwilling to satisfy prior to Closing, or if the sale of the Property is restrained at any time by a court of competent jurisdiction, or if the Property is occupied by the owner of the Property and the Vendor is unable to provide vacant possession on Closing Day, the Vendor may, in its sole and unfettered discretion, elect by written notice to the Purchaser, to terminate this Agreement, whereupon the Deposit and any interest earned thereon shall be returned to the Purchaser, and neither party shall have any further rights or liabilities hereunder.

The obligation of the Vendor to complete the Agreement is subject to the satisfaction of the following terms and conditions on or prior to the Closing Date, which conditions are for the sole benefit of the Vendor and which may be waived by the Vendor in its sole discretion:

- (a) the representations and warranties of the Purchaser being true and accurate as of the Closing Date;
- (b) no action or proceeding at law or in equity shall be pending or threatened by any person, firm, government, government authority, regulatory body

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or agency to enjoin, restrict or prohibit the purchase and sale of the Property;

- (c) the Property shall not have been removed from the control of the Vendor by any means or process;
- (d) no party shall take any action to redeem the Property; and,
- (e) the Court shall have granted Approval of this Agreement and shall have granted the Vesting Order.

#### 11. Purchaser's Acknowledgements

The Purchaser hereby acknowledges and agrees with and to be subject to the following:

- (a) it is responsible for conducting its own searches and investigations of the current and past uses of the Property;
- (b) the Vendor makes no representation or warranty of any kind that the present use of future intended use by the Purchaser of the Property is or will be lawful or permitted;
- (c) it is satisfied with the Property and all matters and things connected therewith or in any way related thereto;
- (d) it is relying entirely upon its own investigations and inspections in entering into this Agreement;
- (e) it is purchasing the Property on an "as is, where is" and "without recourse" basis including, without limitation, outstanding work orders, deficiency notices, compliance, requests, development fees, imposts, lot levies, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any governmental authority having jurisdiction over the Property;
- (f) it relies entirely on its own judgment, inspection and investigation of the Property and acknowledges that any documentation relating to the Property obtained from the Vendor has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of this Offer;
- (g) it will provide the Vendor with all requisite information and materials, including proof respecting source or funds, at any time or times within forty-eight (48) hours of request by the Vendor so that the Vendor may

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determine the creditworthiness of the Purchaser and any related parties thereto;

- (h) the Vendor shall have no liability or obligation with respect to the value, state or condition of the Property, or the Leases, if any, whether or not the matter is within the knowledge or imputed knowledge of the Vendor, its officers, employees, directors, agents, representatives and contractors;
- (i) the Vendor has made no representations or warranties with respect to or in any way related to the Property, including without limitation, the following: (i) the title, quality, quantity, marketability, zoning, fitness for any purpose, state, condition, encumbrances, description, present or future use, value, location or any other matter or thing whatsoever related to the Property, either stated or implied; and (ii) the environmental state of the Property, the existence, nature, kind, state or identity of any Hazardous Substances on, under, or about the Property, the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under the *Environmental Protection Act* (Ontario), or any other statute, regulation, rule or provision of law now in existence, state, nature, kind, identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Substances whether on, under or about the Property or elsewhere;
- (j) the Material Documents are being provided to the Purchaser merely as a courtesy and without any representations or warranties whatsoever; and,
- (k) it will ensure that any environmental and/or structural reports on behalf of the Purchaser shall also be addressed to the Vendor and a copy of each such report shall be delivered to the Vendor promptly after the completion thereof, regardless of whether the transaction contemplated by this Offer closes. If for any reason such transaction is not consummated, the Purchaser agrees to deliver promptly to the Vendor any and all reports and other data pertaining to the Property and any inspections or examinations conducted hereunder.

## 12. Title to the Property

Provided that the title to the Property is good and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement, and save and except for:

- (a) any reservations, restrictions, rights of way, easements or covenants that run with the land;

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- (b) any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
- (c) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
- (d) any minor easements for the supply of utility services or other services to the Property or adjacent properties;
- (f) encroachments disclosed by any error or omission in existing surveys of the Property or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Property and survey of the Property and survey matters generally;
- (g) the exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
- (h) any reservation(s) contained in the original grant from Crown;
- (i) the Lease(s), if any, and the right of any tenant, occupant, lessee or license to remove fixed equipment or other fixtures;
- (j) subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14;
- (k) provincial succession duties and escheats or forfeiture to the Crown;
- (l) the rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
- (m) any lease to which subsection 70(2) of the *Registry Act* (Ontario) applies; and
- (n) those registrations set out in Schedule "C" attached hereto.

Notwithstanding the foregoing, the Vesting Order shall provide for the deletion of the instruments or registrations listed in Schedule "B" attached hereto, and for the deletion of any filings under the *Personal Property Security Act* (Ontario), as they affect the Property.

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13. Authorizations

The Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Property and the use thereof by the Purchaser. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Vendor's right, title and interest, if any, in the Property.

14. Requisition Period

The Purchaser shall be allowed until the Condition Date to investigate the title to the Property and to satisfy itself that all present uses are the legal uses thereof or legal nonconforming uses which may be continued and that the Property may be insured against usual insurable risks, at the Purchaser's own expense. If within such time the Purchaser shall furnish the Vendor in writing with any valid objection to title to the Property, which the Vendor is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive, then the Agreement shall be terminated, the Deposits and any interest earned thereon shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder. Save as to any valid objection made as aforesaid or which the law allows to be made and is made after expiry of the aforesaid period, the Purchaser shall be conclusively deemed to have accepted the title to the Property to be vested in the Purchaser on Closing in accordance with the Agreement, and to have accepted the Property subject to all applicable laws, by-laws, regulations, easements and covenants affecting its use and the Purchaser shall assume responsibility from and after the Closing Date for compliance therewith. The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands, except as are in the control or possession of the Vendor. The Vendor shall not be required to produce any other document or report to the Purchaser, unless it is expressly provided for by this Agreement. The description of the Property is believed by the Vendor to be correct but, if any statement, error or omission shall be found in the particulars thereof, the same shall not cancel the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

15. Leases and Affordable Housing Agreements

The Purchaser acknowledges and agrees that:

- (a) the Property may be subject to Lease(s);

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- (b) the Vendor makes no representation or warranty respecting the accuracy and completeness of any Lease(s), if any. The Vendor represents that to the best of its knowledge and belief, the Affordable Housing Agreements have been complied with by the Vendor during its period of possession of the Property, and at the request of the Purchaser, will provide a certificate to that effect in favour of the Purchaser (the "Vendor's Certificate");
- (c) the Purchaser will purchase the Property subject to the terms and conditions of the Lease(s), if any, without representation or warranty (whether expressed or implied) of any kind or type from the Vendor relating to the Leases, including without limitation, (i) the enforceability of same (ii) whether the Leases accurately reflect the correct arrangement with the tenant(s) (iii) whether the tenants are in possession thereunder and/or paying rents in accordance thereof (iv) whether there are any ongoing unresolved disputes relating to the provisions of the Lease(s) or any parties' obligations thereunder and (v) whether any party or parties to the Lease(s) is or are in default of any obligations contained therein;
- (d) the Vendor shall not be required to make any adjustments to the Purchase Price for current rentals or prepaid rents or security deposits which may have been received by any party other than the Receiver; and,
- (e) the Vendor shall not be required to produce acknowledgements from the tenant(s) respecting the status of the Lease(s), if any.

The Vendor will execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date an assignment of any interest which the Vendor may have in the Lease(s).

#### 16. Risk of Loss

The buildings and all other things being purchased shall be and remain until completion at the risk of the Vendor. The Property shall thereafter be at the risk of the Purchaser. Pending completion, the Vendor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interest may appear and in the event of substantial damage to the Property before the completion of the Agreement which damage gives rise to any insurance proceeds, the Purchaser may either terminate this Agreement and have the Deposits returned with interest or deduction or else take the proceeds of insurance and complete the transaction. Where any damage is not substantial, the Purchaser shall be obliged to complete the Agreement and be entitled to the proceeds of insurance referenced to such damage. The Purchaser agrees that all the insurance maintained by the Vendor shall be cancelled on the Closing Date and that the Purchaser shall be responsible for placing its own insurance thereafter.

17. Planning Act

This Agreement is subject to the express condition that if the provisions of Section 50 of the *Planning Act* (Ontario) apply to the sale and purchase of the Property, then this Agreement shall be effective to create an interest in the Property only if such provision is complied with.

18. Harmonized Sales Tax

The Purchaser hereby represents and warrants to the Vendor that it is or will become registered for the purposes of Part IX of the *Excise Tax Act* (Canada) in accordance with the requirements of Subdivision (d) of Division V thereof and it will continue to be so registered as of the Closing Date. The Purchaser covenants to deliver to the Vendor drafts not less than five (5) days before the Closing Date and originals upon Closing of: (i) a notarial copy of the certificate evidencing its registration for purposes of the goods and services tax / harmonized sales tax ("HST"), including the registration number assigned to it; and (ii) a declaration and indemnity of the Purchaser confirming the accuracy, as at Closing, of the representations and warranties set out herein and agreeing to indemnify the Vendor for any amounts for which the Vendor may become liable as a result of any failure by the Purchaser to pay the HST payable in respect of the sale of the Property under Part IX of the *Excise Tax Act* (Canada) and that the Purchaser is buying for its own account and not as trustee or agent for any other party. Provided that the Purchaser delivers a notarial copy of the certificate and the declaration and indemnity as set out above, the Purchaser shall not be required to pay to the Vendor, nor shall the Vendor be required to collect from the Purchaser, the HST in respect of the Property. In the event that the Purchaser shall fail to deliver the notarial copy of the certificate and the declaration and indemnity as set out above, then the Purchaser shall pay to the Vendor, in addition to the Purchase Price, in pursuance of the Purchaser's obligation to pay and the Vendor's obligation to collect HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to thirteen (13%) percent of the Purchase Price, or such rate due and owing at the time of Closing.

19. Closing

Closing shall take place on the date which is ten (10) days following Approval of the Agreement by the Court and issuance of the Vesting Order, or such earlier date as the parties or their respective solicitors may actually agree upon in writing (the "Closing Date" or "Closing"). Provided that the Vendor by written notice to the Purchaser or its solicitors may postpone the Closing Date from time to time, but in no event shall the date of Closing be postponed to a date more than sixty (60) days after the original Closing Date. The Vendor and the Purchaser acknowledge that the Teraview Electronic Registration System ("TERS") is operative and mandatory in the Land Titles Division for the Land Registry Office



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of Ottawa-Carleton (No. 4). The Purchaser and Vendor shall each retain legal counsel who are authorized TERS users and who are in good standing with The Law Society of Ontario. The Vendor and Purchaser shall each authorize their respective legal counsel to enter into a document registration agreement in the form as adopted by the joint LSO-CBAO Committee of documents and closing funds and the release thereof to the Vendor and Purchaser, as the case may be:

- (a) shall not occur contemporaneously with the registration of the Transfer/Deed of Land or Application to Register the Vesting Order, and Receiver's certificate required by the Order (and other registerable documentation, if any) to be registered by the Purchaser's solicitor; and,
- (b) shall be governed by the document registration agreement pursuant to which legal counsel receiving any documents or funds will be required to hold same in escrow and will not be entitled to release except in strict accordance with provisions of the document registration agreement and the Purchaser shall be required to deliver the balance due on closing on the Closing Date to the Vendor's solicitors, to be held in escrow by them, whereupon the Vendor's solicitors shall after payment forthwith attend to have the signed Receiver's Certificate filed with the Court, which signed and entered Receiver's Certificate and Vesting Order shall form part of the Application – Vesting Order, and which shall be delivered by the Vendor's solicitors to the Purchaser's solicitors for immediate registration by the Purchaser's solicitors. Upon registration of the Application – Vesting Order, the Vendor shall release possession of the Property to the Purchaser and the balance due on closing shall be released from escrow.

20. Vendor's Closing Deliveries

The Vendor shall execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date, against payment of the Purchase Price, the following:

- (a) a statement of adjustments;
- (b) a direction for the payment of the balance of the Purchase Price due on Closing;
- (c) an undertaking by the Vendor to readjust all items on the statement of adjustments within sixty (60) days from the date of Closing on written demand;
- (d) a certificate of the Vendor to the effect that it is not at the Closing Date a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*;

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- (e) a copy of the Vesting Order;
- (f) the Vendor's Certificate, if so requested by the Purchaser;
- (g) a current Rent Roll;
- (h) an assignment of any interest which the Vendor may have in the Lease(s),  
if any;
- (i) a notice to the tenant(s) under the Lease(s), if any, to pay future rents to  
the Purchaser, or as the Purchaser may direct;
- (j) keys that may be in the possession of the Vendor;
- (k) all Material Documents, if not already in the possession of the Purchaser;  
and,
- (l) any other documents relative to the completion of this Agreement as may  
reasonably be required by the Purchaser or its solicitors.

**21. Purchaser's Closing Deliveries**

The Purchaser shall execute and deliver to the Vendor on the Closing Date the following:

- (a) wire transfer for the balance of the Purchase Price and any other monies  
required to be paid by the Purchaser pursuant to the Agreement, or the  
adjustments, including all applicable federal and provincial taxes, duties  
and registration fees unless the applicable exemption certificates in a form  
acceptable to the Vendor are presented to the Vendor on or before the  
Closing Date to exempt the Purchaser therefrom;
- (b) all certificates, indemnities, declarations and other evidences  
contemplated hereby in form and content satisfactory to the Vendor's  
solicitors, acting reasonably;
- (c) an undertaking by the Purchaser to readjust all items on the statement of  
adjustments;
- (d) a notarial copy of its HST registration and HST certificate and indemnity  
as required pursuant to this Agreement;

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- (e) an agreement to assume all existing Leases, if any, service and supply contracts in place as of Closing;
- (f) the indemnities required to be delivered by the Purchaser to the Vendor pursuant to Section 26 hereof;
- (g) the release and discharge required to be delivered by the Purchaser to the Vendor pursuant to Section 27 hereof; and,
- (h) any other documents relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.

**22. Inspection**

Without limitation, all of the Property shall be as it exists on the Closing Date with no adjustments to be allowed to the Purchaser for changes in conditions or qualities from the date hereof to the Closing Date. The Purchaser acknowledges and agrees that the Vendor is not required to inspect the Property or any part thereof and the Purchaser shall be deemed, at its own expense to have relied entirely on its own inspection and investigation. The Purchaser acknowledges that no warranties or conditions, expressed or implied, pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions apply hereto and all of the same are hereby waived by the Purchaser.

**23. Encroachments**

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Property, or encroachments of the Property onto adjoining lands, or to remove same, or for any matters relating to any applicable zoning regulations or by-laws in existence now or in the future affecting the Property.

**24. Purchaser's Warranties**

The Purchaser represents and warrants that:

- (a) if applicable, it is a corporation duly incorporated, organized and subsisting under the laws of Canada, Ontario or another province of Canada;
- (b) if applicable, it has the corporate power and authority to enter into and perform its obligations under the Agreement and all necessary actions and approvals have been taken or obtained by the Purchaser to authorize the creation, execution, delivery and performance of the Offer and resulting Agreement and the Offer has been duly executed and delivered by the

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Purchaser, and the resulting Agreement is enforceable against the Purchaser in accordance with its terms; and,

- (c) it is not a non-Canadian for the purpose of the *Investment Canada Act* (Canada) and it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

## 25. Confidentiality

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Vendor's prior written consent be disclosed to any third party. If for any reason Closing does not occur, all such documents (including without limitation, the Material Documents) shall forthwith be returned intact to the Vendor and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that unless and until the terms of this Offer and the Agreement become public knowledge in connection with an application to the Court for Approval of the Agreement, the Purchaser shall keep such terms confidential and shall not disclose the same to anyone except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

## 26. Indemnification

The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the operations of the Purchaser on the Property or any order, notice, directive, or requirement under, or breaches, violations or non-compliance with any Environmental Laws after the Closing Date or as a result of the disposal, storage, release or threat of release or spill on or about the Property of any Hazardous Substance after the Closing Date. For the purposes of the foregoing, "Environmental Laws" shall mean all requirements under or prescribed by common law and all federal, provincial, regional, municipal and local laws, rules, statutes, ordinances, regulations, guidelines, directives, notices and orders from time to time with respect to the discharge, generation, removal, storage or handling of any Hazardous Substance. The obligation of the Purchaser hereunder shall survive the Closing Date.

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The Purchaser shall indemnify the Vendor and save harmless the Indemnitees from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the failure of the Purchaser to pay any taxes, duties, fees and like charges exigible in connection with the Offer or Agreement. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining, any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Property.

**27. Release**

The Purchaser agrees to release and discharge the Vendor together with its officers, employees, agents and representatives from every claim of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Property. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up or remove or pay for the cleanup or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Property or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substance. This provision shall not expire with, or be terminated or extinguished by or merged in the Closing of the transaction of purchase and sale, contemplated by this Offer and the Agreement, and shall survive the termination of this Offer and the Agreement for any reason or cause whatsoever and the closing of this transaction.

**28. Non-Registration**

The Purchaser hereby covenants and agrees not to register this Offer or the Agreement or notice of this Offer or the Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Offer or the Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Offer or the Agreement, caution, certificate of pending litigation or other document providing evidence of this Offer or the Agreement or any assignment of this Offer or the Agreement from the title to the Property. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Offer or the Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Property.

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**29. Assignment**

Save and except for the completion of this transaction by a company to be incorporated by the Purchaser, the Purchaser shall not have the right to assign its rights under this Agreement without the Vendor's prior written consent, which consent may be unreasonably withheld. Notice of the Purchaser's intention to assign, with the assignee's name and address for service and the assignee's HST number shall be provided to the Vendor not less than seven (7) days prior to the Closing Date.

**30. Notices**

Any notice to be given or document to be delivered to the parties pursuant to this Agreement shall be sufficient if delivered personally or sent by email or sent by facsimile or mailed by prepaid registered mail at the following addresses:

To Vendor:

Deloitte Restructuring Inc.  
8 Adelaide Street West  
Suite 200  
Toronto, ON  
M5H 0A9

Attention: Hartley Bricks  
Email: [hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)

with a copy to (which shall not constitute notice):

Dickinson Wright LLP  
Barristers & Solicitors  
199 Bay Street  
Suite 2200, P.O. Box 447  
Commerce Court Postal Station  
Toronto, Ontario  
M5L 1G4

Attention: David Preger  
Email: [dpreger@dickinsonwright.com](mailto:dpreger@dickinsonwright.com)

Attention: Paul A. Muchnik  
Email: [pmuchnik@dickinsonwright.com](mailto:pmuchnik@dickinsonwright.com)

Fax: (844) 670-6009

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and in the case of a notice to the Purchaser, to:

Royal United Investments Limited  
197 Spadina Avenue, Suite 500,  
Toronto, ON M5T 2C8

Attention: Shua Rubner  
Email: shua@yad.ca

with a copy to the Purchaser's solicitors (which shall not constitute notice):

N.H. Winter Law Professional Corporation  
1 St. Clair Avenue East, Suite 801,  
Toronto ON M4T 2V7

Attention: Esther C. Berglas  
Email: eb@nwinlaw.com

Any written notice or delivery of documents given in this manner shall be deemed to have been given and received on the day of delivery if delivered personally or sent by email or sent by facsimile or, if mailed, three (3) days after the deposit with the post office.

**31. Entire Agreement**

The Agreement shall constitute the entire agreement between the parties to it pertaining to the subject matter thereof and shall supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there shall be no agreements or understandings between the parties in connection with the subject matter thereof except as specifically set forth herein. No party hereto has relied on any express or implied representation, written or oral, of any individual or entity as an inducement to enter into the Agreement.

**32. Amendment**

No supplement, modification, waiver or termination of the Agreement shall be binding, unless executed in writing by the parties to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise, executed by the duly authorized solicitors for the parties.

**33. Time of Essence**

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Time shall be of the essence in this Agreement in all respects and any waiver of any time provision shall not be effective unless in writing and signed by both parties.

**34. Binding Agreement**

This Offer, when accepted, shall constitute a binding agreement of purchase and sale subject to its terms. It is agreed that there is no representation, warranty, collateral agreement or condition affecting the Agreement or the Property supported hereby other than as expressed herein in writing.

**35. Governing Law**

This Offer and the Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**36. Gender, Interpretive Matters**

This Offer and the Agreement shall be read with all changes of gender or number required by the context. The titles to provisions do not form part of this Offer or the Agreement and are inserted for reference purposes only. Preparation and submission of the form of this Offer or any other material by the Vendor shall not constitute an offer to sell.

**37. Severability**

Any provision of this Agreement which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

**38. Non-Merger**

The provisions of this Agreement (including, without limitation, the representations and warranties of the Purchaser), shall survive Closing and shall not merge in the Vesting Order or in any other documents delivered hereunder.

**39. Counterparts**

The parties hereto agree that this Agreement may be executed in counterparts and by facsimile transmission and each such counterpart so executed by facsimile transmission shall be deemed to be an original and when taken together shall constitute as one and the same Agreement.


*[Signature Page Follows]*



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IN WITNESS WHEREOF the Purchaser has executed this Offer this 27th day of August, 2019.

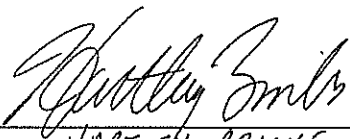
**PURCHASER:  
ROYAL UNITED INVESTMENTS  
LIMITED**

By:   
Name: Shua Rubner  
Title: Analyst

*I have authority to bind the corporation.*

Subject to the Approval of the Court, the undersigned hereby accepts the foregoing Offer this 27 day of AUGUST, 2019.

**DELOITTE RESTRUCTURING INC.**  
in its capacity as court-appointed Receiver of all of the Debtors' assets, undertakings and properties acquired for, or used in relation to a business carried on by each of the Debtors and not in its personal or corporate capacity

By:   
Name: HARTLEY BRICKS  
Title: SENIOR VICE PRESIDENT

*I have authority to bind the corporation.*

## SCHEDULE "A"

Legal Description

Land Title Division for the Land Registry Office of Ottawa-Carleton

**PIN 04213-0302 (LT)**

PART OF LOT 18 PLAN 43586 N/S CLARENCE STREET BEING PART 1 ON 4R21669; OTTAWA. T/W RIGHT-OF-WAY AND EASEMENT OVER PART LOTS 16, 17 & 18 PLAN 43586 PT 3 PLAN 4R21669 AS IN OC699531. T/W EASEMENT OVER PART LOTS 16, 17 & 18 PLAN 43586 PART 4 ON 4R21669 AS IN OC699531. T/W RIGHT-OF-WAY OVER PART LOTS 16, 17 & 18 PLAN 43586 PART 2 ON 4R21669 AS IN OC699531. S/T RIGHT-OF-WAY AND EASEMENT OVER PART 1 ON 4R21669 IN FAVOUR OF PART LOTS 16, 17 & 18 PLAN 43586 PARTS 2, 3 & 4 ON 4R21669 AS IN OC699531.

**PIN 04213-0303 (LT)**

PART LOTS 16,17 & 18 PLAN 43586 N/S CLARENCE STREET BEING PARTS 2,3 & 4 ON 4R21669; OTTAWA S/T RIGHT-OF-WAY AND EASEMENT OVER PART 3 ON 4R21669 IN FAVOUR OF PART LOT 18 PLAN 43586 PART 1 ON 4R21669 AS IN OC699531. S/T EASEMENT OVER PART 4 ON 4R21669 IN FAVOUR OF PART LOT 18 PLAN 43586 PART 1 ON 4R21669 AS IN OC699531. S/T RIGHT-OF-WAY OVER PART 2 PLAN 4R21669 IN FAVOUR OF PART LOT 18 PLAN 43586 PART 1 ON 4R21669 AS IN OC699531. T/W RIGHT-OF-WAY AND EASEMENT OVER PART 1 ON 4R21669 IN FAVOUR OF PART LOTS 16, 17 & 18 PLAN 43586 PARTS 2,3 & 4 ON 4R21669 AS IN OC699531.

## SCHEDULE "B"

## REGISTRATIONS TO BE DELETED FROM PIN 04213 – 0302 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
OC654524	2006/10/27	CHARGE	\$1,805,004	QUEX PROPERTY CORPORATION	CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING
OC654525	2006/10/27	NOTICE		QUEX PROPERTY CORPORATION	CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING
OC654527	2006/10/27	NOTICE	\$1	CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING	
OC839857	2008/04/09	CHARGE	\$1,584,000	QUEX PROPERTY CORPORATION	FIRST NATIONAL FINANCIAL GP CORPORATION
OC839858	2008/04/09	NOTICE		QUEX PROPERTY CORPORATION	FIRST NATIONAL FINANCIAL GP CORPORATION
OC839868	2008/04/09	NOTICE	\$2	FIRST NATIONAL FINANCIAL GP CORPORATION	
OC839869	2008/04/09	CHARGE	\$1,080,000	QUEX PROPERTY CORPORATION	FIRST NATIONAL FINANCIAL GP CORPORATION
OC839870	2008/04/09	NOTICE		QUEX PROPERTY CORPORATION	FIRST NATIONAL FINANCIAL GP CORPORATION

OC839879	2008/04/09	NOTICEE	\$2	FIRST NATIONAL FINANCIAL GP CORPORATION	
OC1453861	2013/02/15	NOTICE	\$1	QUEX PROPERTY CORPORATION	QUEX BEAUSOLEIL LTD.
OC1474005	2013/05/03	POSTPONEMENT		CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING	FIRST NATIONAL FINANCIAL GP CORPORATION
OC1474006	2013/05/03	POSTPONEMENT		CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING	FIRST NATIONAL FINANCIAL GP CORPORATION
OC1474007	2013/05/03	POSTPONEMENT		CITY OF OTTAWA	FIRST NATIONAL FINANCIAL GP CORPORATION
OC1474008	2013/05/03	POSTPONEMENT		CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING	FIRST NATIONAL FINANCIAL GP CORPORATION
OC1474009	2013/05/03	POSTPONEMENT		CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING	FIRST NATIONAL FINANCIAL GP CORPORATION
OC1474010	2013/05/03	POSTPONEMENT		CITY OF OTTAWA HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING	FIRST NATIONAL FINANCIAL GP CORPORATION

## REGISTRATIONS TO BE DELETED FROM PIN 04213 – 0303 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
OC702787	2007/04/02	CHARGE	\$4,882,240	QUEX PROPERTY CORPORATION	FIRST NATIONAL FINANCIAL GP CORPORATION
OC702788	2007/04/02	NOTICE		QUEX PROPERTY CORPORATION	FIRST NATIONAL FINANCIAL GP CORPORATION
OC702792	2007/04/02	NOTICE	\$2	FIRST NATIONAL FINANCIAL GP CORPORATION	
OC1818749	2016/08/19	CHARGE	\$2,900,000	GOLDEN DRAGON HO 11 INC.	LIAHONA MORTGAGE INVESTMENT CORP.
OC1818750	2016/08/19	NOTICE		GOLDEN DRAGON HO 11 INC.	LIAHONA MORTGAGE INVESTMENT CORP.

## SCHEDULE "C"

## REGISTRATIONS TO BE PERMITTED ON PIN 04213-0302 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
LT1219325	1999/08/11	NOTICE		QUEX PROPERTY CORPORATION	THE CONSUMER'S GAS COMPANY LTD.
OC578037	2006/04/03	NOTICE		CITY OF OTTAWA	QUEX PROPERTY CORPORATION
4R21669	2007/01/02	PLAN REFERENCE			
OC697767	2007/03/19	NOTICE	\$1	CITY OF OTTAWA	QUEX PROPERTY CORPORATION
OC699554	2007/03/22	NOTICE		QUEX PROPERTY CORPORATION	
OC708277	2007/04/18	NOTICE	\$1	CITY OF OTTAWA	QUEX PROPERTY CORPORATION
OC709181	2007/04/20	NOTICE	\$14	CITY OF OTTAWA	QUEX PROPERTY CORPORATION
OC830819	2008/03/07	NOTICE	\$2	QUEX PROPERTY CORPORATION	
OC1512213	2013/08/27	NOTICE		QUEX PROPERTY CORPORATION	TM MOBILE INC.
OC1789072	2016/05/24	TRANSFER	\$2,911,072	QUEX PROPERTY CORPORATION	GOLDEN DRAGON 10 INC.
OC1939617	2017/10/13	APPLICATION COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	FIRST NATIONAL FINANCIAL GP CORPORATION

## REGISTRATIONS TO BE PERMITTED ON PIN 04213-0303 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
LT1219325	1999/08/11	NOTICE		QUEX PROPERTY CORPORATION	THE CONSUMER'S GAS COMPANY LTD.
OC578037	2006/04/03	NOTICE		CITY OF OTTAWA	QUEX PROPERTY CORPORATION
4R21669	2007/01/02	PLAN REFERENCE			
OC697767	2007/03/19	NOTICE	\$1	CITY OF OTTAWA	QUEX PROPERTY CORPORATION
OC699554	2007/03/22	NOTICE		QUEX PROPERTY CORPORATION	
OC708277	2007/04/18	NOTICE	\$1	CITY OF OTTAWA	QUEX PROPERTY CORPORATION
OC709181	2007/04/20	NOTICE	\$14	CITY OF OTTAWA	QUEX PROPERTY CORPORATION
OC1453861	2013/02/15	NOTICE	\$1	QUEX PROPERTY CORPORATION	QUEX BEAUSOLEIL LTD.
OC1512213	2013/08/27	NOTICE		QUEX PROPERTY CORPORATION	TM MOBILE INC.
OC1789073	2016/05/24	TRANSFER	\$7,763,928	QUEX PROPERTY CORPORATION	GOLDEN DRAGON II INC.
OC1939617	2017/10/13	APPLICATION COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	FIRST NATIONAL FINANCIAL GP CORPORATION