

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

EQUITABLE BANK

Applicant

and

ALIREZA MALEKI IN HIS CAPACITY AS ESTATE TRUSTEE OF THE  
ESTATE OF NGA TU TRUONG

Respondent

**APPLICATION RECORD**

(Appointment of Receiver – October 24, 2024)

October 9, 2024

**FOGLER, RUBINOFF LLP**

Lawyers  
77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8

**Catherine Francis (LSO# 26900N)**

cfrancis@foglers.com  
Tel: 416-941-8861

Lawyers for the Applicant

TO: **Alireza Maleki**  
in his capacity as Estate Trustee of the Estate of Nga Tu Truong  
2 Bonacres Ave.  
Scarborough, ON M1C 1P7  
[beepal13@gmail.com](mailto:beepal13@gmail.com)  
[beepal13@yahoo.com](mailto:beepal13@yahoo.com)  
[beepal13@icloud.com](mailto:beepal13@icloud.com)

Tel: 416-820-4511

AND TO: **CANADA REVENUE AGENCY**  
c/o Department of Justice  
Ontario Regional Office  
120 Adelaide St. W., Suite 400  
Toronto, ON M5H 1T1

**Intake Centre for Insolvency (Ontario Region)**  
Administrative Agreement Requests  
Manager, Insolvency  
Toronto Centre Tax Services Office, Canada Revenue Agency

[AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca](mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca)

AND TO: **MINISTER OF FINANCE**  
**INSOLVENCY UNIT**  
6th Floor, 33 King Street West  
Oshawa, ON L1H 8H5

**Insolvency Unit**  
[insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca)

**INDEX**

TAB	DOCUMENT	PAGE NOS.
1.	Notice of Application issued October 1, 2024	1 – 11
2.	Affidavit of Rose Gallo sworn October 9, 2024	12 – 20
A.	<b>Exhibit “A”</b> – Commitment Letter dated March 22, 2013	21 – 33
B.	<b>Exhibit “B”</b> – First Mortgage in the amount of \$612,500, Instrument No. AT3271307 dated April 5, 2013	34 – 41
C.	<b>Exhibit “C”</b> – Standard Charge Terms	42 – 49
D.	<b>Exhibit “D”</b> – General Assignment of Rents dated April 2, 2013 and registered on April 5, 2013 as Instrument No. AT3271308	50 – 61
E.	<b>Exhibit “E”</b> – Security Agreement dated April 2, 2013	62 – 74
F.	<b>Exhibit “F”</b> – Parcel Register, 1201 St. Clair Avenue West, Toronto as at February, 2024 (PIN 21316-0236)	75 – 76
G.	<b>Exhibit “G”</b> – CRA Lien \$28,490.66 dated October 4, 2019, Instrument No. AT5256725	77 – 78
H.	<b>Exhibit “H”</b> – CRA Lien \$2,545,138.59 dated November 9, 2022, Instrument No. AT6220446	79 – 80
I.	<b>Exhibit “I”</b> – Proof of Death Certificate dated September 13, 2023	81
J.	<b>Exhibit “J”</b> – Certificate of Appointment dated August 21, 2024	82 – 87
K.	<b>Exhibit “K”</b> – Demand Letter dated January 11, 2024	88 – 90
L.	<b>Exhibit “L”</b> – Notice of Sale under Mortgage dated February 15, 2024	91 – 94
M.	<b>Exhibit “M”</b> – Notice of Intention to Enforce Security February 15, 2024	95
N.	<b>Exhibit “N”</b> – Email report from Kasthury Suthaharan of MFS dated February 21, 2024	96 – 105
O.	<b>Exhibit “O”</b> – Photograph of Mr. Quintanilla's female pit bill nursing puppies	106
P.	<b>Exhibit “P”</b> – Photographs showing damage to the unit	107

TAB	DOCUMENT	PAGE NOS.
3.	Consent of BDO Canada Limited dated October 8, 2024	108 – 109



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

EQUITABLE BANK

Applicant

and

ALIREZA MALEKI IN HIS CAPACITY AS ESTATE TRUSTEE OF THE  
ESTATE OF NGA TU TRUONG

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C.C.43

**NOTICE OF APPLICATION**

TO THE RESPONDENT

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

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- In writing
- In person
- By telephone conference
- By video conference

at the following location:

[location]

- 2 -

*(Courthouse address or telephone conference or video conference details, such as a dial-in number, access code, video link, etc. if applicable)*

**Thursday, October 24, 2024 at 10:00 a.m.**  
on [day, date], at [time], before a judge presiding over the Commercial List *(or on a day to be set by the registrar)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

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

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

Date October 1, 2024 Issued by \_\_\_\_\_  
Local Registrar

Address of Superior Court of Justice  
court office: 330 University Avenue, 9th Floor  
Toronto ON M5G 1R7

TO: Alireza Maleki  
in his capacity as Estate Trustee of the Estate of Nga Tu Truong  
2 Bonacres Ave.  
Scarborough, ON M1C 1P7

- 3 -

## APPLICATION

### A. The Applicant makes application for:

1. An Order substantially in the form of the Commercial List Template Receivership Order appointing BDO Canada Limited as the receiver and manager ("**Receiver**"), without security, of all of the assets, property and undertakings of Alireza Maleki in his capacity as estate trustee of the estate of Nga Tu Truong related to the real property located at 1201 St. Clair Avenue West, Toronto, Ontario (the "**St. Clair Property**") pursuant to Section 243 of the *Bankruptcy and Insolvency Act*, RSC 1986, c B-3, as amended and Section 101 of the *Courts of Justice Act*, RSO 1990, c C43, as amended; and
2. Such further and other Relief as to this Honourable Court may deem just.

### B. The grounds for the application are:

1. The Applicant, Equitable Bank, is a Canadian Schedule I bank with its head office in Toronto, Ontario. Equitable Bank is the successor to The Equitable Trust Company ("**Equitable Trust**").
2. The Respondent, Alireza Maleki, also known as Ali Reza Maleki and Ali Maleki, is the former husband of the late Nga Tu Truong and the trustee of the estate of Nga Tu Truong (the "**Estate**").
3. Alireza Maleki and Nga Tu Truong were the registered and beneficial owners of the St. Clair Property.

- 4 -

4. The St. Clair Property consists of:
  - (a) One commercial unit on the main level and lower level, which was formerly occupied by a restaurant, which is no longer operating;
  - (b) One residential unit on the lower level – back side; and
  - (c) Two residential units on the second level
  
5. Pursuant to a Commitment Letter dated March 22, 2013, Equitable Trust agreed to provide a loan to Alireza Maleki and Nga Tu Truong in the amount of \$612,500, secured by a first mortgage over the St. Clair Property, to be used to pay out an existing mortgage with Home Trust, and the balance to be used to acquire a property at 1524 Danforth Avenue, Toronto (the "**Danforth Property**").
  
6. In accordance with the Commitment Letter, Equitable Trust advanced the sum of \$612,500 to Alireza Maleki and Nga Tu Truong and obtained a first charge over the St. Clair Property in the principal amount of \$612,500, which was registered in the Land Title Division for the Toronto Registry Office (NO. 80) on April 5, 2013 as Instrument No. AT3271307 (the "**First Mortgage**").
  
7. As security for its loan, Equitable Trust also obtained:
  - (a) a General Assignment of Rents which was registered in the said Land Titles Office on April 5, 2013 as Instrument No. AT3271308;
  - (b) A Security Agreement.



- 5 -

8. On April 8, 2023, Alireza Maleki and Nga Tu Truong granted a second mortgage in the principal amount of \$437,400 to Equitable Trust (the "**Second Mortgage**"), which was registered as collateral security for a loan made by Equitable Trust to Alireza Maleki and Nga Tu Truong to purchase the Danforth Property.

9. On December 10, 2018, Alireza Maleki transferred his interest in the St. Clair Property to Nga Tu Truong, such that Nga Tu Truong became the sole owner of the St. Clair Property from and after December 10, 2018.

10. On the same day, Nga Tu Truong transferred her interest in the Danforth Property to Alireza Maleki such that he became the sole owner of the Danforth Property.

11. The St. Clair Property is currently encumbered by the following:

- (a) The First Mortgage;
- (b) The General Assignment of Rents;
- (c) The Second Mortgage;
- (d) A tax lien filed by Her Majesty the Queen in Right of Canada as Represented by the Minister of National Revenue ("**CRA**") on October 19, 2019 as Instrument No. AT5256725 in the amount of \$28,490.66; and
- (e) A tax lien filed by CRA on November 9, 2022 as Instrument No. AT6220446 in the amount of \$2,545,138.59.

- 6 -

12. Pursuant to an Assumption Agreement dated October 6, 2022, Nga Tu Truong assumed all of the obligations under the First Mortgage and Alireza Maleki was released from his obligations.

13. Nga Tu Truong passed away on September 8, 2023.

14. Pursuant to a Certificate of Appointment dated August 21, 2024, Alireza Maleki was appointed as estate trustee of the Estate.

15. Following Nga Tu Truong's death, neither the Estate nor Alireza Maleki have made payments to Equitable Bank under the First Mortgage, as a result of (among other things) the loss of the commercial tenant, difficulties with one of the residential tenants who is not paying rent, and the tax liens.

16. By letter dated January 11, 2024, Equitable Bank, by its lawyers Fogler Rubinoff LLP, made demand on the Estate for payment of three months' mortgage arrears, totalling \$21,101.77 including administration and legal fees.

17. The Estate failed to pay the arrears of interest.

18. On February 15, 2024, Equitable Bank issued a Notice of Sale under Mortgage with respect to the St. Clair Property, claiming \$391,291.76, together with interest thereon at the rate of 6.36% per annum to the date of payment.

19. On February 15, 2024, Equitable Bank issued a Notice of Intention to Enforce Security.

- 7 -

20. The time periods under the Notice of Sale under Mortgage and the Notice of Intention to Enforce Security have expired.
21. The St. Clair Property is in a poor state of repair.
22. The commercial tenant vacated the unit leaving substantial arrears. Accordingly, the commercial premises have now been secured.
23. There was a single residential tenant at the St. Clair Property who has allegedly not paid rent for years, who has caused significant damage, and who appears to be illegally breeding pit bulls.
24. Alireza Maleki attempted to the evict the tenant, but was unsuccessful.
25. The insurance for the St. Clair Property lapsed in the spring of 2024. Equitable Bank is in the process of attempting to arrange insurance.
26. As of September 23, 2024, Equitable Bank is owed \$421,608.84.
27. The appointment of a Receiver is urgently required in order to:
  - (a) Take possession of the St. Clair Property;
  - (b) Deal with the residential tenant, including the potential illegal use of the premises;
  - (c) Ensure that the St. Clair Property is winterized;
  - (d) Ensure that there is adequate insurance in place;

- 8 -

- (e) Assess damage to the St. Clair Property and whether the damage will be repaired prior to a sale;
- (f) Collect the rental arrears;
- (g) Enter into leases, if appropriate;
- (h) List the St. Clair Property for sale; and
- (i) Apply for an approval and vesting order.

28. It is just and equitable to appoint a Receiver in these circumstances.

29. The First Mortgage (Standard Charge Terms 8651) and Security Agreement both include a contractual right to appoint a Receiver.

30. BDO Canada Limited has consented to act as Receiver.

31. Section 243 of the *Bankruptcy and Insolvency Act*, RSC 1986, c B-3, as amended and Section 101 of the *Courts of Justice Act*, RSO 1990, c C43, as amended.

32. Such further and other grounds as the lawyers may advise.

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

- 1. The affidavit of Rose Gallo, to be sworn;
- 2. Consent of BDO Canada Limited; and

- 9 -

3. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

October 1, 2024

**FOGLER, RUBINOFF LLP**

Lawyers

77 King Street West

Suite 3000, P.O. Box 95

TD Centre North Tower

Toronto, ON M5K 1G8

**Catherine Francis (LSO# 26900N)**

cfrancis@foglers.com

Tel: 416-941-8861

Lawyers for the Applicant

**APPENDIX "A"**

PIN No. 21316-0236 (LT)  
PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO,  
City of Toronto  
Province of Ontario  
Land Title Division for the Toronto Registry Office (NO. 80)

Electronically issued / Délivré par voie électronique : 01-Oct-2024  
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : CV-24-00728653-00CL

**EQUITABLE BANK**

Applicant

-and-

**ALIREZA MALEKI IN HIS CAPACITY AS ESTATE  
TRUSTEE OF THE ESTATE OF NGA TU TRUONG**  
Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF APPLICATION**

**FOGLER, RUBINOFF LLP**

Lawyers  
77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8

**Catherine Francis (LSO# 26900N)**

cfrancis@foglers.com  
Tel: 416-941-8861

Lawyers for the Applicant

Court File No. CV-24-00728653- 00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

EQUITABLE BANK

Applicant

and

ALIREZA MALEKI IN HIS CAPACITY AS ESTATE TRUSTEE OF THE  
ESTATE OF NGA TU TRUONG

Respondent

**AFFIDAVIT OF ROSE GALLO**

I, **Rose Gallo**, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY THAT:

1. I am a Mortgage Defaults Officer, Mortgage Services, with the Applicant, Equitable Bank, and, as such, have knowledge of the matters contained in this affidavit. I am making this affidavit based on my personal involvement in the matters at issue, a review of relevant documents and inquiries with others. Where I have obtained information from others, I believe it is true.

**Overview**

2. The Applicant, Equitable Bank, is a Canadian Schedule I bank with its head office in Toronto, Ontario. Equitable Bank is the successor to The Equitable Trust Company ("**Equitable Trust**"). Equitable Trust changed its name to Equitable Bank and became a Schedule I bank effective July 1, 2013.



- 2 -

3. Equitable Bank is the first mortgagee of a property located at 1201 St. Clair Avenue West, Toronto, Ontario (the "**St. Clair Property**"), which consists of:

- (a) One commercial unit on the main level and lower level, which was formerly occupied by a restaurant, which is no longer operating;
- (b) One residential unit on the lower level – at rear of the commercial unit; and
- (c) Two residential units on the second level.

4. The owner of the St. Clair Property, Nga Tu Truong, passed away in 2023. Nga Tu Truong's former husband, Alireza Maleki, also known as Ali Reza Maleki and Ali Maleki, is the trustee of her estate (the "**Estate**").

5. Equitable Bank's mortgage is in default. As I will discuss in more detail below, the St. Clair Property is currently vacant, other than one residential tenant who is occupying two units, one of which is apparently being used to breed pit bulls and who is substantially in arrears of rent. The property is encumbered by two tax liens exceeding \$2.5 million and is in a poor state of repair.

6. Equitable Bank seeks an Order appointing BDO Canada Limited ("**BDO**") as receiver and manager of the St. Clair Property.

## **Background**

7. Alireza Maleki and Nga Tu Truong were the registered and beneficial owners of the St. Clair Property.

8. Pursuant to a Commitment Letter dated March 22, 2013, Equitable Trust agreed to provide a loan to Alireza Maleki and Nga Tu Truong in the amount of \$612,500, secured by a first mortgage over the St. Clair Property, to be used to pay out an existing mortgage with Home Trust, and the balance to be used to acquire a property at 1524 Danforth Avenue, Toronto (the "**Danforth Property**"). A copy of the Commitment Letter is attached as **Exhibit "A"**.

9. In accordance with the Commitment Letter, Equitable Trust advanced the sum of \$612,500 to Alireza Maleki and Nga Tu Truong and obtained a first charge over the St. Clair Property in the principal amount of \$612,500, which was registered in the Land Title Division for the Toronto Registry Office (NO. 80) on April 5, 2013 as Instrument No. AT3271307 (the "**First Mortgage**"), a copy of which is attached as **Exhibit "B"**.

10. A copy of the Standard Charge Terms is attached as **Exhibit "C"**.

11. As security for its loan, Equitable Trust also obtained, among other things:

(a) a General Assignment of Rents dated April 2, 2013, which was registered in the Land Titles Office on April 5, 2013 as Instrument No. AT3271308;

(b) A Security Agreement dated April 2, 2013, which was perfected by registration under the Personal Property Security Act on March 28, 2013.

12. Copies of the General Assignment of Rents and Security Agreement are attached as **Exhibits "D"** and **"E"** respectively.

- 4 -

13. Alireza Maleki and Nga Tu Truong also granted a mortgage in the principal amount of \$437,400 to Equitable Trust (the "**Second Mortgage**"), which was registered on April 8, 2013, as collateral security for a loan made by Equitable Trust to Alireza Maleki and Nga Tu Truong to purchase of the Danforth Property.

14. On December 10, 2018, Alireza Maleki transferred his interest in the St. Clair Property to Nga Tu Truong, such that Nga Tu Truong became the sole owner of the St. Clair Property from and after December 10, 2018.

15. On the same day, Nga Tu Truong transferred her interest in the Danforth Property to Alireza Maleki such that he became the sole owner of the Danforth Property.

16. The St. Clair Property is currently encumbered by the following:

- (a) The First Mortgage;
- (b) The General Assignment of Rents;
- (c) The Second Mortgage;
- (d) A tax lien filed by Her Majesty the Queen in Right of Canada as Represented by the Minister of National Revenue ("**CRA**") on October 4, 2019 as Instrument No. AT5256725 in the amount of \$28,490.66; and
- (e) A tax lien filed by CRA on November 9, 2022 as Instrument No. AT6220446 in the amount of \$2,545,138.59.

17. A copy of the parcel register for the St. Clair Property is attached as **Exhibit "F"**.

- 5 -

18. Copies of the tax liens are attached as **Exhibits "G"** and **"H"** respectively.
19. Nga Tu Truong passed away on September 8, 2023. A copy of the Proof of Death Certificate dated September 13, 2023 is attached as **Exhibit "I"**.
20. Pursuant to a Certificate of Appointment dated August 21, 2024, Alireza Maleki was formally appointed as estate trustee of the Estate. A copy of the Certificate of Appointment is attached as **Exhibit "J"**.
21. No payments have been made on the First Mortgage since Nga Tu Truong's death.
22. By letter dated January 11, 2024, Equitable Bank, by its lawyers Fogler Rubinoff LLP, made demand on the Estate for payment of three months' mortgage arrears, totalling \$21,101.77, including administration and legal fees. A copy of the demand letter is attached as **Exhibit "K"**.
23. The Estate failed to pay the arrears of interest.
24. On February 15, 2024, Equitable Bank issued a Notice of Sale under Mortgage with respect to the St. Clair Property, claiming \$391,291.76, together with interest thereon at the rate of 6.36% per annum to the date of payment. A copy of the Notice of Sale under Mortgage is attached as **Exhibit "L"**.
25. On February 15, 2024, Equitable Bank issued a Notice of Intention to Enforce Security. A copy of the Notice of Intention to Enforce Security is attached as **Exhibit "M"**.

- 6 -

26. The time periods under the Notice of Sale under Mortgage and the Notice of Intention to Enforce Security have expired.

27. As of September 23, 2024, Equitable Bank was owed \$421,608.84, not including legal fees and disbursements.

### **Request to Appoint a Receiver**

28. On February 8, 2024, Equitable Bank's lawyers asked MFS Property Services Inc. ("**MFS**"), a property management company, to conduct an occupancy inspection of the St. Clair Property.

29. On February 21, 2024, Kasthury Suthaharan of MFS reported to me that the commercial portion of the St. Clair Property had been secured previously, but that the remaining residential tenant (Jose Quintanilla) was not cooperating and apparently has been in arrears of rent since 2021. Ms. Suthaharan told me that there was a court hearing scheduled for March 27, 2024 related to this tenant for arrears of rent due to the owner. A copy of the email report is attached as **Exhibit "N"**.

30. The following are documents related to the eviction proceeding:

(a) N4 Notice to End Tenancy issued by Lexine Maleki, one of Nga Tu Truong's daughters to Mr. Quintanilla dated October 12, 2023;

(b) L1/L9 Application – Information Updated dated March 19, 2024.

31. According to the update, Mr. Quintanilla owed \$43,724.00 in rental arrears.

- 7 -

32. I have been advised by Mr. Maleki, either directly or through Equitable Bank's lawyers, that the application was dismissed as a result of technical deficiencies.

33. I have been advised by Alireza Maleki through Equitable Bank's lawyers that:

- (a) Mr. Quintanilla has a tenancy agreement for one unit on the second floor but has occupied the second unit without any tenancy agreement;
- (b) Mr. Quintanilla has refused to pay rent and is substantially in arrears;
- (c) Mr. Quintanilla has been illegally keeping and breeding pit bulls;
- (d) There has been significant damage to the St. Clair Property, and in particular the unit or units occupied by Mr. Quintanilla;
- (e) MFS has advised that no inspector is willing to attend to turn the gas on due to acts of the tenant and the existence of the pit bulls.

34. A copy of a photograph of Mr. Quintanilla's female pit bill nursing puppies, which I am advised was taken in 2022, is attached as **Exhibit "O"**.

35. Copies of photographs showing damage to the unit are attached as **Exhibit "P"**.

36. The St. Clair Property is currently uninsured. As a result of the presence of Mr. Quintanilla, who is not paying any rent and who is illegally occupying premises that he never rented, Equitable Bank has been unable thus far to obtain insurance coverage.

- 37. In light of the issues with the tenant/squatter, the apparent presence of illegal pit bulls on the premises, the property damage and the pressing need to secure and winterize the property, Equitable Bank seeks the appointment of BDO as Receiver.
- 38. Paragraph 30 of the Standard Charge Terms and Paragraph 12 of the Security Agreement both provide for the appoint of a Receiver on default under the First Mortgage.
- 39. BDO has consented to act as Receiver.
- 40. I make this affidavit in support of the appointment of a receiver and for no improper purpose.

**SWORN** by Rose Gallo of the City of Toronto, in Province of Ontario, before me at the Town of Ajax, in the Regional Municipality of Durham, in the Province of Ontario, on October 9, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



*Karen Fox*

\_\_\_\_\_  
 Commissioner for Taking Affidavits  
 (or as may be)

**Karen Anne Fox, a Commissioner, etc.,  
 Province of Ontario, for Fogler, Rubinoff LLP,  
 Barristers and Solicitors.  
 Expires March 21, 2027.**

*Rose Gallo*

\_\_\_\_\_  
**ROSE GALLO**

EQUITABLE BANK  
Applicant

-and- ALIREZA MALEKI et al.  
Respondent

Court File No. CV-24-00728653- 00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF ROSE GALLO**

**FOGLER, RUBINOFF LLP**

Lawyers  
77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8

**Catherine Francis (LSO# 26900N)**

cfrancis@foglers.com  
Tel: 416-941-8861

Lawyers for the Applicant





**EQUITABLE  
TRUST**

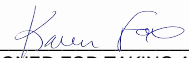
March 22, 2013

The Mortgage Centre – Get a Better Mortgage  
642 The Queensway  
Toronto, ON  
M8Y 1K5

This is Exhibit "A" referred to in  
the affidavit of **Rose Gallo**  
sworn before me, by video conference  
this 9<sup>th</sup> day of October, 2024

**Attention: Jack Pereira**

**Re: 1201 St. Clair Avenue West, Toronto, ON**  
**Loan Number: 152782**

  
A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
**Province of Ontario, for Fogler, Rubinoff LLP,**  
**Baristers and Solicitors.**  
**Expires March 21, 2027.**

We are pleased to advise that The Equitable Trust Company (variously the "Lender", "we" or "us") is prepared to offer to **Ali Reza Maleki (a.k.a. AliReza Maleki and Ali Maleki) and Nga Truong (a.k.a. Nga Tu Ruong and Darleen Maleki)** a loan (the "Loan") which shall be secured by a first mortgage/charge of land against the Property upon the terms and conditions set out below and in the schedules attached hereto (the "Commitment"), subject to strict compliance with and fulfillment of the terms and conditions contained herein by the Borrower.

**Borrowers:** Ali Reza Maleki (a.k.a. AliReza Maleki and Ali Maleki) and Nga Truong (a.k.a. Nga Tu Ruong and Darleen Maleki) (the "Borrowers" or "you")

**Covenantor:** 2106370 Ontario Ltd. (collectively, the "Covenantor")

**Loan Amount:** \$612,500.

**Loan Purpose:** The proceeds of the loan will be used to pay out an existing mortgage with Home Trust for approximately \$450,000. The balance of the funds will be used for the acquisition of 1524 Danforth Avenue, Toronto, ON, M4J 1N4 which is being funded concurrently and will be cross collateralized and cross default with the subject property. Solicitor to control funds.

**Term:** 2 years from the Interest Adjustment Date, as defined below (the "Term")

**Interest Rate:** 4.55% compounded semi-annually not in advance, both before and after maturity, default and judgment.

Subject to the expiry and termination provisions contained herein, the Interest Rate shall be available to the Borrower for a period of 45 calendar days from the date of this Commitment. After this 45th calendar day period the Lender reserves the right to re-set the Interest Rate in its sole discretion. The Borrower may terminate this Commitment within 3 calendar days of such re-set by indicating its intention to the Lender. In the event the Borrower



exercises this right of termination it is acknowledged that the Commitment Fee as defined herein shall be retained by the Lender. The failure of the Borrower to notify the Lender of its intention to terminate the Commitment within 3 calendar days of a re-set in the Interest Rate shall be deemed to indicate the Borrower's acceptance of such re-set.

**Amortization:** 25 years

**Commitment Expiry:** This Commitment is terminable by the Lender, and the Borrower agrees that the Lender shall be under no obligation to make any advance, or any further advance, of the net proceeds, in the event:

- (a) the Borrower fails to return a fully-executed copy of this Commitment to the Lender, together with the Commitment Fee within five (5) business days of the date of this Commitment, or
- (b) the net proceeds of the Loan have not been fully advanced by May 6, 2013.

**Anticipated Advance Date:** April 3, 2013.

**Interest Adjustment Date:** Shall be the 5<sup>th</sup> day of the calendar month immediately following the date of the first advance under the Loan or as may be determined by the Lender.

**Repayment:** Blended payments of principal and interest based on the Amortization Period and set at the advance date of the Loan, shall be payable on the 5th day of each month during the Term (via pre-authorized payment) and the balance shall be due and payable in full on maturity date of the Loan.

Until the Interest Adjustment Date simple interest on the portion of the Loan advanced calculated daily at the Interest Rate, is payable on the Interest Adjustment Date and may be deducted from the advance.

**Payment Authorization:** You agree to sign a form acceptable to the Lender authorizing us to automatically debit your account, on a pre-authorized basis, for all amounts owing under this Commitment and the Loan.

**Prepayment Privilege [Closed]:** Subject to Schedule 5, there shall be no right of prepayment of the Loan in whole or in part.

**Description of Property:** The subject property is an interior 2 storey circa 1927 (approximately 3,186 sq. ft.) mixed use commercial residential building.

**Conditions Precedent to Advance:** On or before the last date for the advance of funds hereunder, the following conditions shall have been complied with to the complete satisfaction of the Lender and the Lender shall have received the following documents and matters in form and substance satisfactory to the Lender and its solicitor, in their sole, unfettered and subjective discretion:

1. **Security:** Duly executed copies of the Security and evidence of registration and



- perfection of same, in the priority required by the Lender in all appropriate registration offices;
2. Title: Title to the Property shall be satisfactory to the Lender and all realty taxes, local improvement charges, rates, and any unpaid utilities which form a lien in priority to the Lender's Security, relating to the Property shall have been paid in full;
  3. Title Insurance: A valid title insurance policy, obtained at the Borrower's sole expense;
  4. Appraisal: An appraisal of the Property, addressed to the Lender, obtained at the Borrower's sole expense, and prepared by **Terrain Appraisal Corporation** indicating the present market value of the Property. The appraisal must confirm a loan to value of **70.00%** and a minimum debt service coverage ratio of **1.51x** and be in form and substance satisfactory to the Lender, in its sole unfettered and subjective discretion;
  5. Insurance Requirements:
    - a. Evidence of insurance coverage, where such insurance coverage is provided by an insurance company acceptable to the Lender, in respect of the Property in form and content satisfactory to the Lender and with the coverages more particularly set out in Schedule 2 attached hereto or such other forms of insurance as the Lender may reasonable require given the nature of the Property and the coverage which a prudent Borrower would purchase and maintain on such Property;
    - b. If the Borrower fails to obtain or maintain such insurance as is required herein, then the Lender may, but is not obliged to, obtain and keep in force such insurance as it deems reasonable at the sole cost and expense of the Borrower which, if not paid immediately upon demand, shall be added to the principal amount of the Loan and shall accrue interest accordingly;
  6. Compliance with Laws, By-laws etc.: Satisfactory evidence of compliance with all applicable laws, by-laws and governmental and municipal regulations, orders or requirements ("Laws") including without limitation, those dealing with planning, zoning, use, occupancy, building code, environmental matters or fire including, without limitation, all requirements under applicable fire retrofit provisions, and that there are no work orders, deficiency notices or other violations outstanding against the Property, or any other non compliance with applicable Laws;
  7. AML Compliance: Satisfactory results, in the Lender's sole discretion, of due diligence investigations conducted pursuant to the Proceeds of Crime Money Laundering and Terrorist Financing Act (Canada) and Regulations thereunder;
    - Solicitors will have to be able to obtain; two pieces of acceptable identification for *Borrower/Covenantor(s)* (or up to three Signing Officers, if borrowing under a corporate entity) prior to closing
    - Satisfactory signed and dated mortgage application.
    - Satisfactory 2011 Notice of Assessments and T1 Generals (including Statements of Real Estate Rentals) for the borrowers: Ali Reza Maleki and Nga Truong.



- Satisfactory Articles of Incorporation for 2106370 Ontario Ltd.
  - Satisfactory Certificate of Incumbency for 2106370 Ontario Ltd., indicating Ali Reza Maleki and Nga Truong are the beneficial owners.
8. Certificates and Opinions: Director's resolutions, certificates of officers and opinions of counsel to the Lender and Borrower, confirming corporate capacity and the due authorization, execution, delivery, enforceability and priority of Security, as may be required by the Lender;
  9. Solicitor to control funds to pay off the first mortgage with Home Trust Company for approximately \$450,000;
  10. Satisfactory Purchase and Sale Agreement for the sale of Sensual Café;
  11. Satisfactory current and complete copy of the financial statements for 2106370 Ontario Ltd.;
  12. Leases: The rents are at fair market rents for the area and the terms and provisions of the Leases are consistent with prudent landlord's practices and contain no terms or provisions therein which materially adversely affect the Lender's Security, as determined by the Lender;
  13. Other: Any other information and documentation as the Lender may reasonably request.

If any of the forgoing conditions are not satisfied to the Lender's satisfaction in its sole, unfettered and subjective discretion, then the Lender shall have the right to terminate this Commitment in which event the Commitment Fee shall be retained by the Lender and the Commitment shall be at an end.

**Security:** The security for the Loan (the "Security") shall be:

- i. a first mortgage and assignment of rents (together, the "Mortgage") in the amount of \$612,500. on the freehold property known as 1201 St. Clair Avenue West, Toronto, ON and the improvements thereon (the "Property");
- ii. A collateral 2<sup>nd</sup> mortgage and cross default over 1524 Danforth Avenue, Toronto, ON, M4J 1N4 (Loan 152763). Appraisal value of \$583,200 with a 1<sup>st</sup> mortgage to Equitable Trust for \$437,400.
- iii. a first general assignment of leases for the Property. We reserve the right to require specific assignments of present and future leases of the Property at any time;
- iv. a general security agreement comprising a first security interest on the personal property owned by the Borrower, or beneficial owner, if any, now or hereafter situate on or used or acquired in connection with or arising from the Property;
- v. a Guarantee and Postponement of Claim from 2106370 Ontario Ltd. who shall be jointly and severally liable with the Borrower for all obligations of the Borrower under the Loan, all security collateral thereto and this Commitment;



- vi. if registered title to the Property is held for a third party beneficiary, a beneficial owners agreement;
- vii. if there is a right of first refusal, a First Right of Refusal agreement as hereinafter described; and
- viii. such other documents, instruments, agreements and security the Lender or Lender's solicitor may reasonably require.

All documentation shall be in the Lender's standard form subject only to such reasonable modifications acceptable to the Lender in its sole discretion to reflect the Loan transaction. All terms and conditions of the above security documentation and supporting documents shall be deemed to be incorporated in and form part of this Commitment. The Lenders' solicitors in this transaction are **Mitch Kazdan** who must act exclusively on the Lender's behalf in connection with this matter.

**Garfinkle, Biderman**  
**Attention: Mitch Kazdan**  
**1 Adelaide Street East, Suite 801**  
**Toronto, Ontario**

**Telephone: (416) 869-1234**  
**Fax: (416) 869-0547**  
**E-mail: mkazdan@garfinkle.com**

**Taxes:** You will pay an additional monthly payment of 1/12<sup>th</sup> of the estimated annual property taxes (including any local improvement charges) assessed against the Property; the tax portion of the payment will be adjusted from time to time in order to pay the taxes as they fall due. In addition, the Lender may holdback from the initial advance of under the Loan, an amount equal to the greater of: 4 monthly tax portions or such amount determined by the Lender, in its sole discretion, to ensure that there is no deficiency in the tax account at any time. If at any time there is a deficiency on your tax account, it shall be payable to the Lender immediately upon demand. You shall promptly forward to the Lender all property tax bills (including local improvement charges).

**Commitment Fee:** A fee of \$6,000.00 is payable by the Borrower to the Lender upon acceptance of the terms of this Commitment (the "**Commitment Fee**"). The Lender acknowledges that \$1,000.00 of the Commitment Fee has been paid to the Lender as a deposit. It is agreed that the Commitment Fee is non-refundable and to be applied on account of the reasonable cost of our work and expenses in processing, approving and providing this Commitment, excluding all costs and fees referred to in this Commitment. In the event this Commitment is cancelled, either by the Lender or by the Borrower, the Commitment Fee shall be retained by us as liquidated damages, and not as a penalty, without prejudice to our right to claim such further and other damages we may sustain by reason of the occurrence.

**Costs and Fees:** Whether or not the transaction contemplated herein is completed, the Borrower shall pay all costs incurred by the Lender in connection with this Commitment, the Loan and Security, including without limitation all legal fees and disbursements of the Lender's solicitors and the fees and disbursements of our agents and consultants. Such costs may be deducted from the Loan proceeds advanced. You acknowledge and agree



that a retainer, in the form of a certified cheque, bank draft or money order in the amount \$1,200.00, or such other amount as our solicitor may require, which is to be provided by you directly to, and deposited with, our solicitor, is required upon execution of this Commitment. In addition, you agree to pay all costs, charges and expenses incurred by the Lender in connection with the operation or enforcement of this Commitment, the Loan or the Security or any amendment, extension, variation, discharge or renewal thereof, including costs of registration of any Security and searches in connection therewith, insurance consultant fees, periodic property inspections and property tax verification and other similar costs, and any fees or charges of agents or other third parties retained by the Lender for the purposes of conducting such activities on our behalf. In addition you agree to pay our administration fees in connection with our administration of the Loan, including providing mortgage statements and discharges, processing pre-authorized debits which are not accepted by the financial institution. Any cost, charge or expense which is not paid on demand will be added to the outstanding principal amount of the Loan, bear interest at the rate set forth herein and secured by the Security.

**Reports and Financial Statements:** Prior to the advance and upon request from the Lender thereafter each year during the Term, each of the Borrower and Covenantor shall within 120 days of the end of their fiscal year, provide to the Lender the following:

1. Annual financial statements for its immediately preceding fiscal year including, without limitation, the balance sheet, statement of earnings, retained earnings and changes in financial position and such other information as may be requested by the Lender;
2. Annual operating statement for the Property for the immediately preceding year setting forth the cost and expenses of operation and maintenance of the Property including without limitation realty taxes, repairs, utilities, management costs, tenant inducements and leasing commissions and such other information as may be requested by the Lender;
3. A current rent roll for the Property including the area and location leased, annual payment (specifying gross or net), recovered amounts, any revenue increase entitlement and /or leasing inducements, prepaid rents and/or security deposits and expiry dates and renewal options for each lease and for residential tenancies the move in dates and date of last rental increase;
4. Copies of commercial leases, or tenancy agreements in effect as of the date of this Commitment signed in the past year or amendments to previous leases provided to the Lender;
5. A Property tax receipt indicating taxes paid;
6. A certificate of current property insurance, with Lender's interest noted as first mortgagee; and
7. A signed net worth statement for each Borrower.

The foregoing are collectively herein referred to as the "Deliveries".

Upon the Lender's request, each of the Borrower and Covenantor shall provide to the Lender such further reports or statements as may be required from time to time. Failure to provide the Deliveries when due or within 30 days of a written request will constitute a default under this Commitment and under the Mortgage.

In addition to, and not in substitution for each of the Borrower and Covenantor's obligations and the rights of the Lender, upon the failure of any of the Borrower or Covenantor to provide the Deliveries, or any other document or information required by the Lender, the Borrower and Covenantor hereby agree to pay to the Lender a fee of



**\$250.00 per month** (or such higher amount as may be determined by the Lender from time to time) for each month or part thereof during which the Borrower or Covenantor is late in providing the Lender with such financial statements as described herein, or any other document or information required by the Lender.

The imposition or collection of fees does not constitute an express or implied waiver by the Lender of any event of default or any of the terms and conditions of this Commitment, or the Security.

**Property Management:** The Lender shall have the right to require the Borrower to engage professional property managers satisfactory to the Lender to manage the Property. All property managers and each property management agreement from time to time shall be subject to the Lender's approval. Any change in the management of the Property shall require the express written consent of the Lender.

**Leases:** The Borrower represents and warrants to the Lender that (i) the Property is leased in accordance with the terms and conditions set out in the rent roll attached as Schedule 3 to this Commitment; (ii) the annual gross rent is **\$58,059**, and (iii) there has been and there shall be no prepayment of rent under the leases, other than as noted in the rent roll attached. The Borrower agrees to provide to the Lender within Two Business Days of acceptance of the Commitment true copies of all present leases, all amendments and renewals related thereto.

At the time of advance, each tenant must be in possession of the whole of its leased premises, be carrying on business therein, be paying rent pursuant to the terms of the lease and the Borrower and the tenant shall have performed all their obligations under the lease.

The Borrower further agrees with the Lender to obtain the prior written consent of the Lender before executing any lease of the whole or any part of the Property regardless of the length of term of any such lease, and agrees that any new lease will be at the fair market for rents and, in any event, shall not be less in amount than what was obtained from the prior tenant during the previous year of the term, and shall ensure that there are no terms or provisions therein which materially adversely affect the Lender's Security, as determined by the Lender.

**Title:** The Borrower hereby represents and warrants that (i) the Borrower is the sole registered owner of the Property and does not hold the same in trust for any other parties except as set out in this Commitment (ii) that title to the Property is good and marketable and free from all easements, rights-of-way, agreements, restrictions, mortgages, charges, liens, executions and other encumbrances, save and except those which may have been disclosed to and accepted by the Lender, in writing, prior to the date of the issuance of this Commitment and those encumbrances determined by and in the sole subjective discretion of the Lender and its solicitor as not affecting the Lender's Security and (iii) the leases and rents charged thereunder are, at Lender's option subordinated to the Lender's Security, legal and enforceable and the Borrower has complied in all respects with all applicable legislation governing rental properties and the rents charged. The title insurers to be used are either First Canadian Title or Chicago Title.

**Inspections:** The Lender (or its respective agents), acting reasonably, may enter upon the Property, from time to time, both before and after the advance hereunder, to conduct any



inspections, environmental testing, site assessments, investigations or studies deemed necessary by the Lender, in its sole, unfettered and subjective discretion; and the reasonable cost of such testing, assessment, investigation or studies, shall be payable by the Borrower forthwith and if not paid on demand will be added to the outstanding principal amount of the Loan, bear interest at the rate set forth herein and secured by the Security.

The Borrower acknowledges and agrees that the Lender shall conduct an inspection of the Property, estimated to be approximately \$175 before any applicable taxes, which shall be at Borrower's sole cost and expense, prior to the advance and the cost of such inspection will be deducted from the advance.

**Encumbrances:** The Borrower covenants to comply with the provisions of any encumbrance permitted by the Lender having priority over the Mortgage ("**Permitted Encumbrance**") and will not amend the terms of such Permitted Encumbrance without the prior written consent of the Lender. Any default under such prior Permitted Encumbrance shall constitute a default under the Mortgage. The Borrower covenants and agrees that it shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Property.

**Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the "Act"):** Each of the Borrower and Covenantor covenant and agree to provide, or cause to be provided, forthwith upon request, two (2) pieces of identification ("ID") (for up to three signing officers each, if corporate entity) acceptable to the Lender together with satisfactory verification of the source of down payment, employment, income and assets and such other information as may be required to ensure the Lender's compliance with the Act.

**Liens:** At all times, and in particular at each disbursement date, there shall have been full and complete compliance with all requirements, of this Commitment, the Security and of federal and provincial legislation which may give rise to a lien or other charge in priority to the Lender and the Borrower shall submit to the Lender satisfactory evidence of such compliance. The Lender may retain from any disbursement such amounts as it considers advisable to protect its interest from subordination under such legislation.

The Borrower shall provide additional security, information and documentation as may be required by the Lender to preserve and ensure in all respects the absolute first priority of the Security over any rights of any existing or potential lien claimants.

**RIGHT OF TERMINATION:** The Lender shall have the right to terminate this Commitment and shall be relieved of all obligations in connection therewith in the event of any of the following events occur prior to the time of the advance (or any final advance) of the Loan hereunder:

1. Failure, for any reason, by the Borrower or Covenantor to comply with or fulfill any of the terms and conditions set out in this Commitment to the Lender's satisfaction. Notwithstanding the Lender's right to terminate, the Lender may, at its sole option and in its sole discretion extend the advance date, subject to certain terms and conditions, including without limitation a change in interest rate;
2. Failure or refusal by the Borrower or Covenantor to execute and deliver any documentation required by this Commitment or reasonably requested by the Lender or its solicitor in connection herewith;





3. The Borrower becomes insolvent or bankrupt or subject to proceedings under the Companies' Creditors Arrangement Act or other similar legislation or subject to any other bankruptcy, receivership, insolvency, winding up or other similar proceedings, whether voluntary or involuntary;
4. The Lender determines, in its sole, unfettered and subjective discretion, that there has been a material adverse change in the Borrower's financial condition or the condition of the Property or in the actual or anticipated revenues from the Property or a lease referenced to herein has been amended or terminated without the Lender's prior written consent, or any event has occurred that could reasonably be expected to result in any of the foregoing;
5. The Lender determines that hazardous substances, including without limitation any asbestos, urea formaldehyde, poly-chlorinated byphenyl (PCB), radioactive, toxic substances or any material considered harmful by the Lender, has been used, is currently being used or will be used on the Property or in any material, equipment or other thing on the Property which, in the Lender's opinion, constitutes or may constitute a hazard to the environment or any living thing or which contravenes any environmental law, regulation, order or directive;
6. The Borrower has not complied with any Laws, including the applicable provincial construction/builders/mechanics lien legislation to the satisfaction of the Lender or its solicitors or have not complied with any obligation that may confer a right of a third party in the Property or to any actual or potential revenues from the Property; and
7. Any material change, discrepancy or inaccuracy in any written information, statements or representations made by or on behalf of the Borrower to the Lender on or prior to the advance.

If, in accordance with the above, the Lender elects to terminate the Commitment prior to the advance of the entire Loan amount, the amount advanced on the Loan, if any, together with interest thereon shall become immediately due and payable. No termination shall limit, restrict or otherwise affect in any way (i) the obligations of the Borrower to pay to the Lender any third party costs and expenses of the Lender in connection with the Loan or any of the Commitment Fee, deposit for third party costs or good faith deposit specified in this Commitment and (ii) the rights of the Lender in respect of any Commitment Fee paid to the Lender, including its right to retain the good faith deposit as compensation for damages sustained by the Lender, it being agreed that the amount of such deposit is a fair estimate of the damages that would be sustained by the Lender and (iii) any rights and remedies of the Lender against any Borrower arising from any breach of this Commitment by the Borrower, including any claim for damages. The Borrower agrees that in such event the Lender has no further obligations to the Borrower and the Borrower hereby releases the Lender from all claims, actions, suits, damages and costs it had, may have or will have in respect of the Commitment.

Each of the Borrower and Covenantor represent and warrant to the Lender that all information and material submitted and all representations made to the Lender are true, complete and accurate and each acknowledge that the Lender has relied on such information, material and representations. A breach of same shall constitute a default under the Commitment or the Security and shall entitle the Lender to exercise all rights and remedies for default thereunder.

**Due on Sale:** In the event of a sale, transfer, conveyance or further encumbering of the Property or any part thereof, a lease of the whole of the Property, a change in the legal or beneficial ownership of the Property or any part thereof, or a change in control of the



Borrower or Covenantor, unless the written consent of the Lender has first been obtained, then the Loan shall, at Lender's sole option, forthwith become due and payable in full and the Borrower shall be deemed to be in default under the Loan and all Security shall become immediately enforceable.

**Credit Investigations:** Each of the Borrower and Covenantor authorizes the Lender or its representatives, from time to time including after the advance(s) hereunder to make inquiries of, and exchange information with, third parties regarding the character, general reputation, personal characteristics, financial and credit data of such Borrower or Covenantor, including its respective directors, officers, shareholders, and principals.

**Assignment:** The Borrower shall not assign any of their rights or obligations under this Commitment or the Loan to a third party. The Borrower agrees that the Lender may sell, transfer, assign or securitize, without the Borrower's consent, their rights and obligations under this Commitment, the Loan, the Security and any related documentation or any part thereof.

Each of the Borrower and the Covenantor agrees that the Lender may disclose confidential information related to the Loan and the Security including any financial information provided by the Borrower or the Covenantor or otherwise relating to the Property to any third party in connection with any such assignment.

**Representations, Warranties and Covenants:** The representations, warranties, covenants and obligations of the Borrower contained herein shall (a) survive any advance or repayment of the Loan, any full or partial release, termination or discharge of any Security, and any remedial proceedings taken by any Lender under the Security or applicable law, (b) enure to the benefit of the Lender and each person having an ownership interest in the Loan from time to time notwithstanding such Loan owner is not a party to any Loan document, and (c) be fully effective and enforceable by the Lender notwithstanding any due diligence performed by or on behalf of any Lender or any breach or other information (to the contrary or otherwise) known to any Lender at any time. Such representations and warranties made on the date of execution of this Commitment and the Security are deemed repeated as of the date of the advance of funds.

The Borrower represents and warrants that this Loan is not intended to be used for the financing of an 'improvement' as defined by the *Construction Lien Act*.

**Amendments:** No amendment or waiver of any term or requirement of this Commitment, the Loan or any Security granted hereunder will be effective unless it is in writing and signed by the Borrower and Lender.

**Further Assurances:** The Borrower shall promptly cure any defect in the preparation, execution and delivery of the Security or any documents hereunder to which it is a party and shall promptly execute and deliver or cause to be executed or delivered, upon request by the Lender all such other and further documents, agreements, opinions, certificates and instruments as may be required by the Lender to more fully state the Borrower's obligations as set out in this Commitment and the Security or to make any registration as first priority, recording, file any notice or obtain any consent, including any documents required by the Lender in connection with the assignment or securitization of the Loan.



**Survival:** The terms and conditions of this Commitment shall, after the acceptance by the Borrower, survive the execution and registration of the Security and the advance of funds pursuant thereto, and shall not merge in the Security or any of them, and the terms of this Commitment shall be incorporated by reference into the Security. In the event of any discrepancy as between the terms of this Commitment and any of the Security, or any discrepancy as between any of the Security, the Lender, in its sole discretion, shall decide the provisions of which shall prevail.

**Interpretation:** This Commitment shall be interpreted in accordance with the laws of the Province in which the Property is situated. This Commitment shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, estate trustees, successors and permitted assigns. The paragraph and other headings set forth in this Commitment are inserted for convenience and reference only and shall in no way define or limit the intent or interpretation of any of the provisions hereof. This Commitment shall be read and construed with all changes of gender and number of the party or parties referred to in each case as required by the context, and the covenants and agreements of the Borrower and Covenantor shall be deemed to be joint and several where they or either of them are more than one person. The terms and conditions set forth on any Schedules referred to and attached to this Commitment are deemed to be included in this Commitment and form a part hereof.

The parties hereto have expressly agreed and required that this Commitment as well as all documents related thereto, including all agreements and notices, be drafted in English. Les parties aux présentes ont expressément exigé que la présente entente ainsi que tout document y relié, incluant toute entente et tout avis, soit rédigés en anglais.

All schedules and addenda annexed hereto form part of this Commitment. The rights and obligations of the parties with respect to the Loan, Security and documents related thereto shall be determined in accordance with the laws of the Province in which the Property is located and federal laws applicable thereto.

**Standard Charge Terms:** The Borrower acknowledges and agrees that the mortgage documentation may incorporate by reference any Standard Charge Terms (filed pursuant to the *Land Registration Reform Act*, 1984, (Ontario) or similar legislation) required from time to time by the Lender for use in the jurisdiction in which the Property is situated, provided that the mortgage document shall not be limited to any such Standard Charge Terms and may incorporate Lender's standard additional provisions for loans of this nature, as are contemplated by this Commitment and/or as may be considered required by the Lender or its Solicitor, having regard to the type of Property and the nature of the Loan. It is further acknowledged that this Commitment represents the entire agreement between the Borrower and Covenantor and the Lender and that there are no verbal agreements between the parties.

**Additional Provisions:** Each of the Borrower and the Covenantor acknowledges and agrees to the additional provisions set forth in Schedule 5 attached hereto.

**Material Adverse Change:** Notwithstanding the satisfaction of all conditions herein and/or rate lock, the Lender shall not be required to advance the Loan, complete the within transaction and may terminate this Commitment if it determines in its sole, unfettered and subjective discretion that there has occurred any change in financial market conditions, applicable laws, or general accounting standards (in each case



whether in Canada, the United States or other international markets) which would, in the opinion of the Lender in its sole, unfettered and subjective discretion, materially and adversely affects the value of the Property, or, the ownership or value of the Loan or the Lender's ability to sell or securitize the Loan profitably in a secondary market transaction.

**Lender's First Right of Refusal on Maturity:** The Borrower shall provide the Lender with the first right of refusal with respect to any mortgage commitment that the Borrower is prepared to accept in respect of the replacement of the Loan upon maturity. The Borrower agrees to provide the Lender with a copy of any such mortgage commitment, and the Lender shall have the right, which is exercisable by notice in writing delivered to the Borrower within three (3) Business Days of receipt of the mortgage commitment from the Borrower, to provide financing offered therein on the same terms and conditions as therein set out. Any mortgage commitment which the Borrower accepts with respect to the replacement of the Loan shall be conditional for three (3) business days following the delivery of such mortgage commitment to the Lender in order to allow the Lender the opportunity to exercise this right of first refusal.

**Publicity:** The Lender may, at its option, upon advancing monies pursuant to this Commitment, disclose to the media in a format it sees fit, an announcement regarding this Loan. The Lender may also require, during any phase of construction of any improvements to the subject property, or any time after the initial advance of funds by the Lender hereunder, that the Borrower erect and maintain a sign, at the Lender's expense, evidencing the Lender's financing of this Loan and may place notices thereof in the media.

**Counterparts/Facsimile Transmission:** This Commitment may be executed in counterparts, and each such counterpart shall be deemed to be an original and all of which together constitute one and the same document. Delivery of this Commitment by any party may be made by facsimile transmission, or electronic mail, to any other party, the broker or their respective agents and shall be valid and binding as if it is an originally signed document.

If in agreement with the terms and conditions of this Commitment, please sign below and return an executed copy of this Commitment to The Equitable Trust Company by **March 25, 2013** together with the Commitment Fee.

Yours very truly,

THE EQUITABLE TRUST COMPANY

Nadira Ramlackan  
Manager, Commercial Broker Services

David Downie  
VP, Commercial Broker Services



We/ hereby acknowledge and accept the terms and conditions of this Commitment:

Dated this 23 of March, 2013

**Borrowers:**

Per: [Signature]  
 All Reza Maleki  
 (a.k.a. AliReza maleki and Ali Maleki)

Per: [Signature]  
 Nga Truong  
 (a.k.a. Nga Tu Ruong and Darleen Maleki)

**Covenantor:**

Per: [Signature]  
 2106370 Ontario Ltd.

I/We have the authority to bind the Corporation

**Attachments:**

Schedule 1- Environmental Indemnity

Schedule 2- Insurance Requirements

Schedule 3- Rent Roll

Schedule 4- Administration and Servicing Fees (to be attached to Mortgage)

Schedule 5- Additional Provisions (to be attached to Mortgage)

**Properties**

*PIN* 21316 - 0236 LT *Interest/Estate* Fee Simple  
*Description* PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO  
*Address* 1201 ST CLAIR AVENUE WEST  
TORONTO

**Chargor(s)**

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

*Name* MALEKI, ALIREZA  
*Address for Service* 187 Gladstone Avenue  
Toronto, Ontario  
M6J 3L3

I am at least 18 years of age.

NGA TU TRUONG and I are spouses of one another and are both parties to this document  
This document is not authorized under Power of Attorney by this party.

*Name* TRUONG, NGA TU  
*Address for Service* 187 Gladstone Avenue  
Toronto, Ontario  
M6J 3L3

I am at least 18 years of age.

ALIREZA MALEKI and I are spouses of one another and are both parties to this document  
This document is not authorized under Power of Attorney by this party.

This is Exhibit "B" referred to in  
the affidavit of **Rose Gallo**  
sworn before me, by video conference  
this 9<sup>th</sup> day of October, 2024



A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for Fogler, Rubloff LLP,  
Barristers and Solicitors.  
Expires March 21, 2027.

**Chargee(s)***Capacity**Share*

*Name* THE EQUITABLE TRUST COMPANY  
*Address for Service* 30 St. Clair Ave. West, Suite 700, Toronto, Ontario, M4V 3A1

**Statements**

Schedule: See Schedules

**Provisions**

<i>Principal</i>	\$612,500.00	<i>Currency</i>	CDN
<i>Calculation Period</i>	semi-annually, not in advance		
<i>Balance Due Date</i>	2015/04/05		
<i>Interest Rate</i>	4.55% per annum		
<i>Payments</i>	\$3,407.07		
<i>Interest Adjustment Date</i>	2013 04 05		
<i>Payment Date</i>	5th day of each month		
<i>First Payment Date</i>	2013 05 05		
<i>Last Payment Date</i>	2015 04 05		
<i>Standard Charge Terms</i>	8651		
<i>Insurance Amount</i>	See standard charge terms		
<i>Guarantor</i>	2106370 Ontario Ltd.		

**Additional Provisions**

2106370 Ontario Ltd. is a Guarantor under this Charge. Its address for service is: 187 Gladstone Avenue, Toronto, Ontario M6J 3L3.

The Chargors and Guarantor further acknowledge and agree that default under that certain mortgage loan in favour of the Chargee (the Chargee's Loan No. 152763) which has been secured, inter alia, by a first Charge registered in the Land Titles Division of the Toronto Land Registry Office (No. 66) on the 8th day of April, 2013 as Instrument No. AT3272164 on the property legally described as: PT LT 677

**Additional Provisions**

PL 557E TORONTO; PT LT 678 PL 557E TORONTO AS IN CA584822; TORONTO, CITY OF TORONTO (being the whole of PIN 10421-0298

(LT)) and municipally known as 1524 Danforth Avenue, Toronto, Ontario (the "1524 Danforth Charge") shall constitute an event of default under this Charge entitling the Chargee herein to exercise all rights and remedies afforded to the Chargee pursuant to this Charge and/or otherwise available at common law.

The Chargor and all Guarantors further acknowledge and agree that a default under this mortgage loan shall likewise constitute a default under the 1524 Danforth Charge entitling the Chargee to exercise all rights and remedies afforded to the Chargee pursuant to the 1524 Danforth Charge and/or available at common law.

**Signed By**

Lindsay Mitchell Kazdan	1 Adelaide Street E., Suite 801 Toronto M5C 2V9	acting for Chargor (s)	First Signed	2013 04 05
-------------------------	---	---------------------------	-----------------	------------

Tel 416-869-1234

Fax 4168690547

Lindsay Mitchell Kazdan	1 Adelaide Street E., Suite 801 Toronto M5C 2V9	acting for Chargor (s)	Last Signed	2013 04 08
-------------------------	---	---------------------------	----------------	------------

Tel 416-869-1234

Fax 4168690547

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

**Submitted By**

GARFINKLE, BIDERMAN LLP	1 Adelaide Street E., Suite 801 Toronto M5C 2V9			2013 04 08
-------------------------	---	--	--	------------

Tel 416-869-1234

Fax 4168690547

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
----------------------------	---------

Total Paid	\$60.00
------------	---------

**File Number**

Chargor Client File Number :	1562782
------------------------------	---------

Chargee Client File Number :	6436-374
------------------------------	----------



**SCHEDULE 4  
ADMINISTRATION AND SERVICING FEES**

THE AMOUNTS SET FORTH HEREIN SUPERSEDE ANY AMOUNTS THAT MAY BE CONTAINED IN THE CHARGE OR STANDARD CHARGE TERMS. NOTWITHSTANDING anything to the contrary contained in the Standard Charge Terms (and in the event of any contradiction, the following provisions shall prevail), the Borrower(s) covenants and agrees with Equitable Trust as follows:

To pay to The Equitable Trust Company (Equitable Trust) its servicing fees for the following matters, in the amounts set forth:

<b>Missed Payment Fee</b>	\$200 payable for each missed or late installment and for processing each NSF cheque or other returned payment. If any cheque is returned NSF, any replacement cheque must be certified and Equitable Trust shall be entitled to have it certified, and to add all the costs of certification (including courier charges to and from the Borrower(s)'s Bank) to the amount owing on the Mortgage.
<b>Insurance Administration</b>	\$200 payable for dealing with each cancellation, premium payment or other non-compliance with insurance requirements.
<b>Tax Administration</b>	\$200 for tax status inquiry plus costs of municipal tax certificate.
<b>Default Proceedings</b>	\$750 payable for each demand letter, action or proceeding instituted.
<b>Amortization Schedule</b>	\$25 for the preparation of an Amortization Schedule.
<b>Amortization Adjustment</b>	\$100 fee payable for any increase or decrease in the amortization period outside the maturity date of the mortgage.
<b>Mortgage Statements</b>	\$100 for preparation of each Statement.
<b>Discharge Administration</b>	\$250 fee.
<b>Assumption Fee</b>	Greater of \$1,500 or ¼ of 1% of outstanding principal balance being assumed (regardless of whether or not assumption application is approved or completed.)
<b>PPSA Fee</b>	\$100 fee for new registrations, renewals, discharges, name changes, and postponements of PPSA registrations.
<b>Deferral Fee</b>	\$50 for each deferral given to the Borrower(s) permitting a delay in payment to a date other than the due date of such payment.
<b>Payment Change Fee</b>	\$50 fee payable for each payment frequency change (i.e. bi-weekly/monthly) and each payment date change during the term of the mortgage.
<b>Variation Fee</b>	Greater of \$600 or 1/8 of 1% of outstanding principal balance payable for Equitable Trust's review and/or consent to any of the following: changes of the Borrower (including changes to the Borrower's structure) guarantors (including adding or removing guarantors), requests for allowance of further encumbrances (including but not limited to second mortgages) and any other variations to the Mortgage or the Security.





Inspection Fee	Fee for Equitable Trust's out of pocket costs for each inspection conducted after default, or to preserve the security herein charged.
Verification Fee	Fee for Equitable Trust's out of pocket costs for verifying details of the Mortgage, including, but not limited to, title searches.

Any administration and/or servicing fees owing by the Borrower(s) to Equitable Trust which is not paid shall be added to the mortgage indebtedness and shall bear interest at the rate herein set forth.

*The fees contained herein are effective as of time of printing.*

**The above fee amounts are subject to change at any time.**



## SCHEDULE 5

**ADDITIONAL PROVISIONS  
COMMERCIAL LOAN PROGRAM**

YOUR MORTGAGE DOCUMENTS SHALL INCLUDE THE FOLLOWING ADDITIONAL PROVISIONS IN ADDITION TO THE LENDER'S STANDARD MORTGAGE PROVISIONS.

NOTWITHSTANDING anything to the contrary contained in the Standard Charge Terms (and in the event of any contradiction, the following provisions shall prevail), the Borrower covenants and agrees with the Lender as follows:

**1. PREPAYMENT AMOUNTS FOR A CLOSED MORTGAGE**

The Borrower, if not in default, shall have the right to prepay, on any regular payment date that the Lender is open for business, the whole, but not any partial payments of principal, of the outstanding principal balance of the Mortgage, (the "Prepayment Amount") with accrued interest to the date of prepayment together with all monies owing, secured or payable under the Mortgage, and together with the greater of:

- a) three months' interest on the Prepayment Amount at the date of prepayment calculated at the mortgage interest rate payable by the Borrower hereunder; and
- b) the amount calculated by the Lender, if any, as of the date of prepayment, by which the present value of the future payments until maturity of the Mortgage with respect to the Prepayment Amount, discounted at the Government of Canada Yield, calculated semi-annually not in advance, exceeds the outstanding principal of the Prepayment Amount (the "Mortgage Yield Maintenance Fee") as determined by the Lender.

"Government of Canada Yield" means the yield to maturity, calculated semi-annually, which an assumed new issue of non-callable Government of Canada bonds denominated in Canadian dollars would carry if issued at par for a term to maturity as close as possible but not shorter, to the remaining term of this Mortgage from and after the payment date."

**2. PREPAYMENT AMOUNTS FOR AN OPEN MORTGAGE**

If the Mortgage is open for prepayment, and provided the Borrower is not in default, the Borrower may prepay all or part of the principal amount of the Mortgage on any regular payment date without notice or additional charge, other than the following administration fees:

- (a) If the Borrower prepays the full principal amount of the Mortgage before the second anniversary of the Interest Adjustment Date, the Borrower may be required to



pay, at the Lender's discretion, an administration fee for processing any such prepayment.

(b) If the Borrower makes a partial prepayment of the principal amount of the Mortgage, the Borrower must continue to make the regular payments on the regular payment dates until all of the monies owing under the Mortgage are paid in full.

### 3. DEFAULT

In the event the principal sum secured hereunder becomes due and payable as a result of a breach, default (including payment after the maturity date of the Mortgage) or acceleration (collectively "Acceleration") for any reason whatsoever, the Borrower shall pay to the Lender the following amounts:

- (a) the principal outstanding secured hereunder as of the date of the Acceleration;
- (b) accrued interest on the principal sum outstanding to date of payment;
- (c) costs and all other monies secured and payable pursuant to the within Mortgage;
- (d) and the greater of the following two amounts:
  - (i) three months' interest on the principal balance outstanding at the time of such Acceleration calculated at the mortgage interest rate payable by the Borrower hereunder; and
  - (ii) the Mortgage Yield Maintenance Fee (calculated as if the amount paid pursuant to (a) above was a Prepayment Amount).

### 4. LIQUIDATED DAMAGES

The Borrower and the Covenantor acknowledge that the prepayment costs are paid as liquidated damages and not as a penalty given that it is a genuine pre-estimate of the loss of interest income that will be suffered by the Lender as a result of the prepayment of principal including prepayment thereof by reason of the Borrower's breach, default or acceleration, having regard to the fact that the Lender matches fixed rate mortgage investments against obligations, that the Lender is not able to immediately re-invest funds received in mortgages and that the re-investment of funds in mortgages involves significant costs.

### 5. PAYMENT AFTER MATURITY DATE

The principal sum secured hereunder, accrued interest, together with any charges, costs or other amounts due in connection with the Mortgage (the "Final Balance Outstanding") are due on the maturity date of the Mortgage. If the Final Balance Outstanding is not paid until after the maturity date of the Mortgage, in order to obtain a discharge you must pay, in addition to the Final Balance Outstanding, an amount equal to three months' interest on the then outstanding principal balance of the Mortgage, calculated at the interest rate set out in the Mortgage.



#### 6. REQUEST FOR CONVERSION – VARIABLE RATE MORTGAGE ONLY

Provided the Mortgage is not in default and further provided that the Borrower(s) has maintained a satisfactory payment record, the Borrower(s) may, with the Lender's consent, without bonus or penalty, convert this Mortgage to a fixed rate term based on the Lender's posted rates. The term selected must be equal to or greater than the remainder of the Term. The new term and interest rate, provided such request for conversion is approved by the Lender, will take effect on the first payment date following the Borrower(s) notification in writing that they wish to convert to a fixed rate term.

#### 7. RENEWAL ON MATURITY

In the absence of either full payout of funds or a signed renewal agreement from the Borrower on the maturity date, the Lender, at its sole option, may automatically renew the mortgage for a period of one month from the maturity date, at an interest rate equal to the greater of 15% per annum or the ETC Prime Rate on the maturity date plus 5% per annum, calculated daily, and compound and payable monthly. In the event that a full payout or a renewal agreement has not been finalized within this one month period, then there will be no further extensions without the express written consent of the Lender. For greater certainty, the Lender shall not be obligated to offer any renewal. All other terms and covenants of this Commitment and the Loan shall continue to apply. The Loan may be paid in full at any time during the one month renewal period. The Borrower acknowledges and agrees that the Lender is entitled to charge and apply a processing fee to the Loan principal for processing such renewal.

#### 8. PRIME RATE

"ETC Prime Rate" means that annual interest rate that is established and posted from time to time by the Lender, at its discretion, as the interest rate then in effect for determining interest on Canadian dollar mortgages or loans made by the Lender in Canada. If it is necessary for the Lender to prove the interest rate in effect it is charging at any time, the Borrower(s) agrees that the production by the Lender of a written certificate setting out the interest rate at that time is conclusive proof for that purpose. The ETC Prime rate is available on the Lender's website at <http://www.equitabletrust.com/SingleFamilyResidential/Rates.aspx>

Any reference to "Prime" or "Prime Rate" shall mean the "ETC Prime Rate".

Additionally, any reference to "Lender" shall also mean Chargee, and any reference to "Borrower" shall also mean "Chargor".



### **GUARANTOR(S) SCHEDULE**

The Guarantor(s) in consideration of the Chargee making the said loan herein and the sum of One (\$1.00) Dollar now paid to him by the said Chargee (the receipt of which is hereby acknowledged) do hereby jointly and severally covenant with the said Chargee as principal debtor and not as surety that he/she/they will pay and truly cause to be paid to the said Chargee the Principal and Interest hereby secured as and when such monies fall due, all taxes, rates and assessments, municipal, local or parliamentary and otherwise which now are or which may hereafter be imposed, charged or levied upon the said lands and premises.

And the said Guarantor(s) does further covenant and agree to and with the Chargee that should default be made hereunder and so often as the same may occur, the Guarantor(s) will forthwith pay unto the Chargee the amount or amounts that may be in default and will forthwith observe, keep and perform the conditions and covenants herein contained by and on the part of the said Chargor to be kept, performed and observed.

It is further agreed that the said Chargee may at any time or times and from time to time extend or agree to extend the time for payment of any or all the monies secured by the said Charge or may refrain from enforcing payments thereof and may alter the terms and time of payment thereof or the rate or time of payment of interest thereon and may release any part of the lands hereby charged or any other person liable on any covenant or any other security, collateral or otherwise, or otherwise deal with this Charge and with the Chargor in whatsoever manner that the Chargee shall think proper from time to time without notice to the Guarantor(s) and without the consent of the Guarantor(s) and notwithstanding same, the Guarantor(s) shall remain fully liable under the foregoing covenants so long as any monies are remaining due or unpaid to the Chargee on this loan.

The Guarantor(s) further agrees that these covenants shall bind him and shall continue to subsist notwithstanding his/her/their death or the giving of time for payment of the Charge or the varying of the terms of payment thereof or the rate of interest thereon.

The Guarantor(s) hereby further covenants and agrees that this absolute and unconditional guarantee and indemnity shall continue in full force and effect and shall in no way be impaired, restricted, released, waived, eliminated, terminated, modified, or in any other way become unenforceable by reason of the Chargor's bankruptcy, insolvency, reorganization or any other proceeding by or against the Chargor or for any other reason.

The Guarantor(s) do further agree that the Chargee shall not be bound to exhaust its recourse against the Chargor or the charged premises before being entitled to payment from the Guarantor(s) or the amount hereby guaranteed by the Guarantor(s).

The Guarantor(s) shall remain fully liable under the foregoing covenants so long as any monies remain due or unpaid under this Charge notwithstanding the sale or transfer of the subject property by the Chargor.

The forgoing shall be jointly and severally binding upon the Guarantor(s) and his/her/their heirs, executors, administrators, successors and assigns.

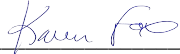
A breach of any covenant contained in this Charge shall constitute a default hereunder and at the option of the Chargee, it may avail itself of the remedies contained in this Charge or available at law.

# THE EQUITABLE TRUST COMPANY

## FORM 6 LAND REGISTRATION REFORM ACT 1984, SET OF STANDARD CHARGE TERMS MULTI-RESIDENTIAL / COMMERCIAL

This is Exhibit "C" referred to in the affidavit of **Rose Gallo** sworn before me, by video conference this 9<sup>th</sup> day of October, 2024

Filed by: THE EQUITABLE TRUST COMPANY  
Filing No. 8651  
Filing Date: December 22, 1986

  
A COMMISSIONER FOR TAKING AFFIDAVITS

Karen Anne Fox, a Commissioner, etc.,  
Province of Ontario, for Fogler, Rubinfeld LLP,  
Barristers and Solicitors.  
Expires March 21, 2027.

The following set of standard charge terms shall be deemed to be included in every charge in which the set is referred to by its filing number, as provided in section 9 of the Act.

### GENERAL INTERPRETATION

1. The headings with respect to the various paragraphs of these terms are intended to be for identification of the various provisions of this Charge only and the wording of such headings is not intended to have any legal effect.
2. a) The implied covenant set out in paragraph 7(i).vii of the Land Registration Reform Act, R.S.O. 1984 is hereby amended by deleting the words "at the Chargee's expense" and substituting therefor the words "at the Chargor's expense".
- b) If any of the forms contained in this Charge are substantially in the form of words contained in Column One of Schedule "B" of the Short Form of Mortgages Act, R.S.O. 1980, C. 474 and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column Two of Schedule "B" of the said Act distinguished by the same number and this Charge shall be interpreted as if the Short Form of Mortgages Act, R.S.O. 1980 Chapter 474 were still in full force and effect.
- c) Whenever there is a conflict between the terms of this Charge and the terms implied pursuant to Section 7 of the Land Registration Reform Act R.S.O. 1984, the terms of this Charge shall prevail.
- d) Those provisions of this Charge that have been added in this Charge to the short form words shall not derogate from the Chargee's rights under the long clauses in the Short Form of Mortgages Act but shall be in addition thereto or in substitution for part or parts as the Chargee may elect and all shall have the force of covenants and any variation from the exact wording of the short form clauses shall not affect the rights of the Chargee and of the long form clauses.
3. In construing these presents:
  - i) the words "Chargor" and "Chargee" and "Guarantor" and the personal pronoun "he" or "his" or "its" relating thereto and used therewith shall be read and construed as "Chargor or Chargors", "Chargee or Chargees", "Guarantor or Guarantors" and "she", "her" or "hers" or "they", "their", "theirs" or "it" or "its" respectively, as the number and gender of the party or parties referred to in each case requires and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted; all rights, advantages, privileges, immunities, powers and things hereby secured to the Chargor, Chargee, Guarantor shall be equally secured to and exercisable by his heirs, executors, administrators and assigns, or successors and assigns as the case may be; and that all covenants, liabilities and obligations entered into or imposed hereunder upon the Chargor, Chargee, or Guarantor shall be equally binding upon his or their heirs, executors, administrators and assigns, or successors and assigns as the case may be; all such covenants and liabilities and obligations shall be joint and several as required by the context.
  - ii) Time shall be of the essence of the Charge.
  - iii) All of the provisions of this Charge on the part of the Chargor to be performed and observed shall be deemed to be covenants and agreements on the part of the Chargor in favour of the Chargee.
  - iv) "Charge" means the charge of the lands made between the Chargor and the Chargee on Form 2 and all schedules thereto pursuant to the Land Registration Reform Act 1984 and any amendments thereto which Charge is deemed to include these standard charge terms pursuant to Section 9 (1) of the said Act.
  - v) "Guarantor" means the Guarantor or covenantor or any other person, except the Chargor, executing Form 2, or any schedule attached thereto, confirming his liability as principal debtor, to repay the Principal monies and interest as secured by this Charge.
  - vi) "Interest" (except as otherwise set out) means interest at the interest rate and in the manner as set out in the Charge calculated and payable on the Principal and such other amounts as provided in the Charge as well after as before maturity and both before and after default, or demand.
  - vii) "Lands" means the lands and premises described in the Charge and includes without limitations all structures, buildings, improvements, installations and fixtures brought or placed thereon, including, without limiting the generality of the foregoing, piping, plumbing, aeriels, electric or gas refrigerators and stoves, incinerators, radiators and covers, fixed mirrors, fitted blinds, window screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air-conditioning, ventilating, heating, lighting, and water heating equipment, cooking and refrigeration equipment and all component parts of any of the foregoing and that the same shall become and are hereby deemed to be fixtures and accession to the freehold and a part of the realty.
  - viii) "Principal" means the principal amount in the lawful money of Canada set out in the Charge that is from time-to time advanced and outstanding under the Charge including without limitation any additions thereto pursuant to the Charge.
  - ix) Servicing fees payable in accordance with these charge terms shall be those generally charged by the Chargee at the time such fees become payable. All servicing fees as herein provided are hereby agreed as required and equitable to compensate the Chargee for the Chargee's administrative and internal costs and shall not be deemed a penalty.
4. If any covenant or condition in this Charge contained shall be void for any reason it shall be severed from the remainder of the provisions hereof and the remaining provisions shall remain in full force and effect notwithstanding such severance.
5. This Charge may be executed and/or registered in several counterparts, each of which, so executed, and/or registered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

### CHARGES LAND

3. The Chargor charges the lands described in the Charge with the payment to the Chargee of the Principal and interest at the rate set out in the Charge payable as provided in the Charge and all other sums which may become due and payable hereunder and with the power of sale to be exercised after default as hereinafter provided.

#### ADVANCE OF FUNDS

7. Neither the preparation, execution nor registration of the Charge shall bind the Chargee to advance the money hereby secured, nor shall the advance of a part of the monies secured hereby bind the Chargee to advance any unadvanced portion thereof, but nevertheless the Charge shall take effect forthwith upon execution by the said Chargor, and the expenses of negotiating the loan, valuation, and inspection, the examination of the title and of the Charge and its registration are secured by the Charge in the event of the whole or any balance of the Principal not being advanced, the same to be charged hereby upon the said lands, and shall be without demand thereof, payable forthwith with interest at the rate provided for in the Charge, and in default the said Chargee's power of sale hereby given, and all other remedies hereunder shall be exercisable.

The Chargee may at its option, withhold from any advances for which the Chargor may have qualified, such holdbacks as the Chargee, in its sole discretion, considers advisable to protect its position under the provisions of the Construction Lien Act, 1983, as amended so as to secure its priority over all liens, until the Chargee is fully satisfied that all lien periods have expired and that there are no preserved or perfected liens outstanding. Nothing in this clause shall be construed to make the Chargee an "Owner" or "Payer" as defined under the Construction Lien Act, 1983, nor shall there be, or be deemed to be, any obligation by the Chargee to retain any holdback which may be required by the said legislation. Any holdback which may be required to be made by the Owner or Payer shall remain solely the Chargor's obligation. The Chargor hereby covenants and agrees to comply in all respects with the provisions of the Construction Lien Act, 1983.

#### PAYMENT PROVISIONS

8. Provided this Charge to be void on payment of the Principal herein, in lawful money of Canada, with interest at the percent rate as herein provided and at the times and places as herein provided and taxes and performance of statute labour and performance of all covenants, provisos and conditions contained in this Charge.
9. And the said Chargor doth release to the said Chargee all his claims upon the said lands subject to the said proviso for redemption.
10. All payments required hereunder to be made by the Chargor shall be made by the use of the Pre-Authorized Payment System used by the Chargee. The Chargor further covenants and agrees with the Chargee to deliver to the Chargee as and when and as often as required, pre-authorized payment forms duly executed by the Chargor with a void cheque attached thereto. The Chargee shall not be obligated to accept any payment excepting payment under the said Pre-Authorized Payment System.
11. In the event that any of the Chargor's cheques or pre-authorized cheques in respect of any amount paid pursuant to this Charge are not honoured when presented for payment, the Chargor shall pay a servicing fee to the Chargee for each such returned cheque.
12. a) All payments payable hereunder to the Chargee shall be payable at par in lawful money of Canada at such place as the Chargee or other holder of the Charge shall designate in writing from time to time.  
b) In the event that any of the monies secured by this Charge are forwarded to the Chargee by mail, payment will not be deemed to have been made until the Chargee has actually received such monies and the Chargor shall assume and be responsible for all risk of loss or delay.
13. Payments when received are to be applied firstly to interest from time-to-time unpaid and the balance, if any, shall be applied on account of and in reduction of the Principal. Notwithstanding any other provision in this Charge contained, in the case of default by the Chargor the Chargee may then apply any payments received during the period of default in whatever order it may elect as between taxes, interest, repairs, insurance premiums, Principal or other advances or payments made by the Chargee on behalf of the Chargor.
14. Any payment made after 1:00 p.m. of any day, shall be deemed, for the purpose of calculation of interest, to have been made and received on the next bank business day.
15. Interest calculated on the amounts of Principal from time-to-time advanced prior to the Interest Adjustment Date, computed from the respective dates of such advances to the Interest Adjustment Date, shall at the option of Chargee be deducted from the advances or paid by the Chargor at such time or times as the Chargee may require and such interest may be so deducted or paid in advance; Principal with interest computed from the Interest Adjustment Date shall become due and be paid in instalments as provided by the Charge and the balance, if any, of the Principal and interest shall become due and payable on the date therein stipulated.
16. In case default shall be made in payment of any sum to become due for interest at the time provided for payment in the Charge, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the rate provided for in the Charge and in case the interest and compound interest are not paid within the interest calculation period provided in the Charge from the time of default, a rest shall be made, and compound interest at the rate provided for in the Charge shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the said lands.

#### REALTY TAXES

17. With respect to all taxes, rates and assessments of whatever nature or kind, including local improvement rates and any and all interest and penalties thereon (hereinafter referred to as "taxes") chargeable against the lands hereby charged, the Chargor covenants and agrees with the Chargee notwithstanding any other term herein that:
- (a) The Chargee may from time to time deduct from the monies being advanced hereunder an amount sufficient to pay all taxes which have become due and an amount sufficient, in the sole discretion of the Chargee, to establish a tax escrow fund so that the Chargee will have sufficient money together with the monthly tax instalments paid in accordance with these terms, to pay the taxes as they fall due;
- (b) Thereafter, in addition to the monthly payments herein required, the Chargor shall pay to the Chargee, or as the Chargee may direct, monthly payments for taxes in such amount as, in the opinion of the Chargee, is required to pay:
- (i) each succeeding interim tax bill by the time the first instalment on that tax bill falls due; and  
(ii) the final tax bill by the time the first instalment on the tax bill falls due;  
together with any additional amounts actually required so that out of the said monthly and additional tax payments the Chargee may pay the whole amount of each tax bill on or before the due date of the first instalment thereof.
- (c) The Chargee is to apply such deductions and amounts to the payment of taxes against the said lands as long as the Chargor is not in default under any covenant, proviso or agreement herein contained or implied, but nothing herein contained or implied shall obligate the Chargee to pay such payments on account of taxes more often than yearly and provided that the Chargee shall not be obligated to make any payments on account of real property taxes if the Chargee has not received sufficient funds pursuant to this paragraph to allow the Chargee to make such payments. Provided, however, the Chargee may at its option from time to time apply such sum or sums so paid to the Chargee in or towards the payment of any Principal or interest in default. If the Chargor desires to take advantage of any discounts or to avoid any penalties in connection with the payment of taxes, he may pay to the Chargee such additional amounts as are required for that purpose.
- (d) Nothing herein contained shall relieve the Chargor of responsibility for the payment of taxes to the extent that the amounts applied to the taxes by the Chargee in accordance with this paragraph no. 17 are not sufficient to fully discharge the same.

- (e) The Chargee may at its option pay any of the taxes when payable either before or after they are due without notice or may make advances therefor in excess of the then amount of credit held by the Chargee for the said taxes. Any excess amount advanced by the Chargee shall be secured as an additional Principal under this Charge and shall bear interest from the date of advancement until repaid.
- (f) The Chargor shall transmit to the Chargee the assessment notices, tax bills and other notices affecting the imposition of taxes upon the said lands forthwith after receipt of same and the Chargee shall not be obligated to make any payment on account of taxes until it has received a payable tax bill.
- (g) In no event shall the Chargor be entitled to any interest on any monthly tax payments made as herein provided and monies so received may be held by the Chargee with its own funds pending payment or application thereof as hereinbefore provided.
- (h) In the event that monthly tax payments are paid by the Chargor to any prior Chargee of the lands and premises covered by this Charge, then, to the extent that such payments are so made to such prior Chargee, such payments shall relieve the Chargor of its obligation to the Chargee herein with respect to monthly tax payments and the transmission of notices and bills in accordance with the provisions hereof.
- (i) The due date herein referred to is that date from and after which penalties accrue and become an additional charge if payment is not made on or before such date.
- (j) In the event of the failure of the Chargor to comply with the covenant herein to provide or forward tax bills and the like, then and in such event the Chargee shall be entitled to charge its usual servicing fee for each written inquiry directed to such taxing authority, or the relevant taxation office for the purpose of ascertaining the status of the tax account pertaining to the lands and premises secured hereunder, together with any cost payable to the said taxing authority for such information.

#### CHARGOR'S COVENANTS TO PAY AND AS TO TITLE

18. The Chargor covenants with the Chargee that:
- (a) the Chargor will pay the Principal money and interest and observe the proviso for redemption contained in paragraph 8 and will pay as they fall due all taxes, rates, assessments, municipal, local, parliamentary and otherwise which now are or may hereafter be imposed, charged or levied upon the said lands and when required by the Chargee, shall transmit the receipts therefor to the Chargee;
  - (b) the Chargor has a good title in fee simple to the said lands;
  - (c) The Chargor has the right to convey the said lands to the said Chargee and to charge the said lands as security for the loan made by the Chargee hereby;
  - (d) the said Chargor will execute such further assurances of the said lands and do such other acts as may be requisite at the Chargor's expense;
  - (e) the said Chargor has done no act to encumber the said lands.

#### INSURANCE

19. a) The Chargor will insure, and keep insured in favour of the Chargee, against loss or damage by fire, and as the Chargee may require insure against loss or damage by tempest, tornado, cyclone, lightning, boiler explosions comprehensive general and public liability and other risks or hazards each and every building (and the income therefrom), structure and fixture on the land ("the buildings") and which may hereafter be erected thereon, both during erection and thereafter for the full insurable amount thereof in lawful money of Canada in a form and with a Company approved by the Chargee. The Chargor will forthwith assign, transfer, and deliver over unto the Chargee, with a mortgage clause satisfactory to the Chargee attached and providing that the loss shall be payable to the Chargee, all of said policies of insurance and premium receipts therefore appertaining and the Chargee shall have a lien for the charge debt on all insurance on the said buildings. If the Chargor shall neglect to insure or keep any buildings insured as aforesaid or to deliver such policies and receipts or to produce to the Chargee at least 15 days prior to the termination of any insurance evidence of renewal thereof, the Chargee shall be entitled but shall not be obliged to insure any buildings and may pay any premiums therefor and charge the same to the Chargor with interest thereon at the rates set out in the Charge and any premiums so paid shall also be a charge on the land and shall be forthwith payable by the Chargor with interest. The Chargor shall, forthwith on the happening of any loss or damage, furnish, at the Chargor's expense, all necessary proofs and do all necessary acts to enable the Chargee to obtain payment of the insurance moneys. Any insurance money received may, at the option of the Chargee, be applied in rebuilding, re-instating, or repairing any building or be paid to the Chargor or any other person appearing by the registered title to be the owner of the land or be applied in the sole discretion of the Chargee, in full or in part on the charge debt or any part thereof whether due or not then due, or paid partly in one way and partly in another.
- b) In the event that the evidence of continuation of such insurance as herein required has not been delivered to the Chargee within the required time, the Chargee shall be entitled to a servicing fee for each written enquiry which the Chargee shall make to the insurer pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the said lands, the Chargee, in addition to the aforesaid servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

#### REPAIRS AND WASTE (Maintenance and Preservation of Property)

20. The Chargor shall keep the said lands and the buildings, erections and improvements thereon in good condition and repair and the Chargee may, whenever the Chargee deems necessary enter upon and inspect the charged lands by its employees, surveyor or agent, and may make such repairs as the Chargee deems necessary, and the cost thereof and of such inspection shall be added to the Principal and shall be payable forthwith together with interest thereon at the rate of the Charge, and the Chargor shall not commit or permit any act of waste on the said lands (as to which the Chargee shall be the sole judge).

#### ALTERATIONS OR ADDITIONS: COMPLIANCE WITH BY-LAWS AND REGULATIONS

21. The Chargor will not make or permit to be made any alterations or additions to the charged premises without the written consent of the Chargee and will promptly observe, perform, execute and comply with all legislation, laws, rules, requirements, orders, directions, ordinances and regulations of every Governmental authority or agency concerning the charged premises and will at the Chargor's own cost and expense make any and all improvements thereon or alterations thereto, structural or otherwise, ordinary or extraordinary, and take any and all steps which may be required at any time by such present or future law, rule, requirement, order, direction, ordinance or regulation.

#### CHANGE OF USE

22. The Chargor will not change or permit to be changed the use of the charged premises, without the written consent of the Chargee and at no time shall the lands and premises herein charged be used in a manner that would contravene the legislation, laws, rules, requirements, orders, directions, ordinances, and regulations of any applicable Governmental authority in force from time to time.

#### DEFAULTS AND CHARGEES RIGHTS AND REMEDIES ON DEFAULT

23. Until default hereunder the Chargor shall have quiet possession of the said lands. On default by the Chargor in payment of Principal or interest under the Charge or in observance or performance of any of the provisions of the Charge, the Chargee may enter on and take possession of the land. When the Chargee enters on and takes possession of the said lands on default, the Chargee shall have quiet possession of the land free from all encumbrances.



24. i) The following events shall be considered events of default hereunder:
- (a) Failure of the Chargor or the Guarantor or any of them to pay any amount due, or any instalment or payment of Principal, Interest and/or Taxes or other monies hereunder, or under any prior charge, lien or encumbrance to which this Charge is subject, on the date upon which any of the payments for same become due.
  - (b) Failure of the Chargor or Guarantor to observe or perform any proviso, condition, agreement, covenant or term set out:
    - A) herein; or
    - B) in the Commitment for the loan secured by this Charge; or
    - C) in any other document executed pursuant to the commitment giving contractual relationship as between the Chargor and the Chargee herein; or
    - D) in any charge, lien or encumbrance to which this Charge is subject.
  - (c) If any misrepresentation or adverse fact or information not represented or disclosed comes to the Chargee's attention at any time and which fact or information was in existence at the time of the application and commitment or of any advance; and in addition to any other remedies contained in this Charge or at law the Chargee shall be at liberty to sue for damages including exemplary damages respecting such event of default.
  - (d) Any act or thing done by the Chargor by which the value of the buildings or lands shall be or in the opinion of the Chargee may be diminished or should the Chargee in good faith deem itself insecure or believe on reasonable grounds that the security is in danger of loss.
  - (e) If the Chargor makes an assignment for the benefit of creditors, becomes insolvent, takes the benefit of any legislation that may be in force for bankrupt or insolvent debtors, or if a receiver or manager is appointed for the Chargor.
  - (f) If the Chargor neglects to keep the said premises in good condition and repair or commits any act of waste on the said lands (as to which the Chargee shall be sole judge).
  - (g) If the Chargee discovers that any representation made by the Chargor, or any covenant or provision contained in this Charge, is untrue.
  - (h) If any construction lien is registered against the lands.
  - (i) If the Chargor allows any buildings erected on the lands to remain unfinished or without any work being done thereon for ten days.
  - (j) If there is a prepayment privilege in this Charge, then in the event that any notice is given by the Chargor in the exercising of any prepayment privilege, and payment is not made in accordance with such notice.
- ii) Provided that the Chargee may in writing at any time or times after default waive such default and any such waiver shall apply only to the particular default waived.
25. The Chargee on default of payment for ten (10) days may on at least ten (10) days' notice enter on and lease the said lands or on default of payment for at least fifteen (15) days may, on at least thirty-five (35) days notice sell the said lands. Such notice shall be given to such persons and in such manner and form and within such time as provided under Part III of The Mortgages Act, R.S.O. 1980, C. 296 as amended or in accordance with any legislation replacing the said Act being in force from time to time and at the time of the default. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with an apparently grown-up person on the said lands, if occupied, or by placing it on the said lands if unoccupied, or at the option of the Chargee, by mailing it in a registered letter addressed to the Chargor at his last known address, or by publishing it once in a newspaper published in the county or district in which the lands are situated; and such notice shall be sufficient although not addressed to any person or persons by name or designation; and notwithstanding that any person to be affected thereby may be unknown, unascertained, or under disability. Provided further, without prejudice to the statutory powers of the Chargee under the foregoing proviso, that in case default be made in the payment of the Principal or Interest or any part thereof and such default continue for two months after any payment of either Principal or Interest falls due, then the Chargee may exercise the foregoing powers of entering, leasing or selling or any of them without any notice, it being understood and agreed, however, that if the giving of notice by the Chargee shall be required by law then notice shall be given to such persons and in such manner and form and within such time as so required by law. The proceeds of any sale hereunder may be applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the said lands or by reason of non-payment or procuring payments of monies secured hereby or otherwise, and that the Chargee may sell any of the said lands on such terms as to credit and otherwise as shall appear to him most advantageous and for such prices as can reasonably be obtained therefor, and in the case of a sale on credit the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder.
- The Chargor will reimburse the Chargee for legal fees, real estate commissions and all other costs incurred by the Chargee in exercising the power of sale and/or the power to lease herein contained.
26. Provided that the Chargee may distrain for arrears of interest, and for overdue Principal and other sums payable under the Charge, in the same manner as if the same were arrears of interest.
27. On the happening of any one or more events of default hereunder, the whole of the Principal outstanding and all interest accruing thereon shall at the option of the Chargee immediately become due and payable without notice and demand and all powers, rights, and remedies in and by this Charge and by law conferred shall become exercisable.
28. In the event of the non-payment of the Principal or any part thereof at the time provided in the Charge whether with or the consent of the Chargee, the Chargor shall not be entitled to require the Chargee to accept payment of the Principal or such part thereof that is overdue except upon payment to the Chargee of all accrued interest plus three months' interest on the Principal money so in arrears, as a bonus; such bonus to be in lieu of notice of intention to pay, the right to give or receive which is hereby waived; but nothing contained in the Charge shall affect or limit the right of the Chargee to recover by action or otherwise the Principal so in arrear after default has been made.
29. Should default be made by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in this Charge and the Chargee exercises the rights and power contained in this Charge to enter into the said lands and premises and to receive the rents and profits derived therefrom, then the Chargee shall, notwithstanding anything in this Charge contained to the contrary, be entitled to receive in addition to all other fees, charges and disbursements to which the Chargee is entitled, a management fee so as to reimburse the Chargee for reasonable time and trouble in the management of the said lands and premises, it being understood and agreed that in the circumstances a management fee equal to at least 5% of the gross receipts received by the Chargee in the management of the said lands and premises is a just and equitable fee, having regard to all of the circumstances and the Chargee shall in such circumstances be entitled to receive standard leasing commissions in respect of rentals obtained by the Chargee in managing the premises.
30. Notwithstanding anything herein contained, it is declared and agreed that at any time and from time to time when there shall be default under the provisions of these presents, the Chargee may at such time and from time to time and with or without entering into possession of the charged premises appoint in writing a receiver (which term shall include a receiver/manager) of the charged

premises, or any part thereof, and of the rents and profits thereof and with or without security and may from time to time by similar writing remove any such receiver and appoint another in his place and stead, and in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor. The Chargor hereby agrees and consents to the appointment of such receiver of the Chargee's choice and without limitation, whether pursuant to this Charge, the Mortgages' Act, the Construction Lien Act or pursuant to the Judicature Act (as the Chargee may at its sole option require). Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the charged premises or any part thereof.

Upon the appointment of any such receiver or receivers from time to time the following provisions shall apply:

- (i) That a statutory declaration of an officer of the Chargee as to default under the provisions of these presents shall be conclusive evidence thereof;
- (ii) That every such receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents falling due in respect to the charged premises, or any part thereof, whether in respect of any tenancies created in priority to these presents or subsequent thereto;
- (iii) That the Chargee may from time to time fix the remuneration of every such receiver who shall be entitled to deduct same out of the charged premises or the proceeds thereof;
- (iv) That each such receiver shall, so far as concerns responsibility and liability for his acts or omissions, be deemed to be the agent or attorney of the Chargor and in no event the agent of the Chargee;
- (v) That the appointment of every such receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a mortgagee in possession in respect of the charged premises or any part thereof;
- (vi) That the receiver shall have the power to rent any portion of the charged premises for such term and subject to such provisions as he may deem advisable or expedient and in so doing such receiver shall be acting as the attorney or agent of the Chargor and shall have the authority to execute any lease of any such premises in the name and on behalf of the Chargor and the Chargor undertakes to ratify and confirm whatever acts such receiver may do in the charged premises;
- (vii) That every such receiver shall have full power to complete any unfinished construction upon the charged premises;
- (viii) That any such receiver shall have full power to carry on or concur in the carrying on of the business of the Chargor, and to employ and discharge such agents, workmen, accountants and other individuals or companies as are required to carry on the said business, upon such terms and with such salaries, wages or remuneration as he shall think proper, and to repair and keep in repair the lands and to do all necessary acts and things for the carrying on of the business of the Chargor and the protection of the said lands of the Chargor;
- (ix) That any such receiver shall have the power to sell or lease or concur in selling or leasing any or all of the said lands, or any part thereof, and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Chargor or otherwise; and any such sale may be made either at public auction or private sale as to him may seem best and any such sale may be made from time to time as to the whole or any part or parts of the lands; and he may make any stipulations as to title or conveyance or commencement of title or otherwise which he shall deem proper;
- (x) That any such receiver shall have the power to borrow money to carry on the business of the Chargor or to maintain the whole or any part of the lands, in such amounts as the receiver may from time to time deem necessary and in so doing the receiver may issue certificates that may be payable when the receiver thinks expedient and shall bear interest as stated therein and the amounts from time to time payable under such certificates shall charge the lands in priority to this Charge;
- (xi) That any such receiver shall have the power to execute and prosecute all suits, proceedings and actions which the receiver in his opinion considers necessary for the proper protection of the lands, to defend all suits, proceedings and actions against the Chargor or the receiver, to appear in and conduct the prosecution and defense of any suit, proceeding or action then pending or thereafter instituted and to appeal any suit, proceeding or action;
- (xii) That any such receiver shall have the full power to manage, operate, amend, repair, alter or extend the charged premises, or any part thereof, in the name of the Chargor for the purpose of securing the payment of rental from the charged premises or any part thereof;
- (xiii) That any such receiver or trustee shall not be liable to the Chargor to account for monies or damages other than cash received by him or it in respect to the charged premises or any part thereof and out of such cash so received every such receiver shall pay in the following order:
  - (a) His remuneration;
  - (b) All payments made or incurred by him in connection with management, operation, amendment, repair, alteration or extension of the charged premises or any part thereof;
  - (c) In payment of interest, principal and other money which may from time to time be or become charged upon the charged premises in priority to monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made and/or incurred by him in respect to the charged premises or any part thereof;
  - (d) In payment of all interest and arrears of interest and any other monies remaining unpaid hereunder; and
  - (e) the residue of any money so received by him shall be applied to the Principal sum or any other amounts from time to time owing under this Charge.

The Chargor hereby irrevocably appoints the Chargee as his attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Chargee and/or its solicitor so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Chargor and all parties dealing with the Chargor, the Chargee and/or the receiver or trustee and/or with respect to the charged premises in the same manner as if such documentation was duly executed by the Chargor himself.

31. The Chargee in exercising any of the rights given to the Chargee under this Charge shall not be deemed to be a Chargee in Possession.
32. a) The Chargee may pay all premiums of insurance all taxes, rates, utilities and heating charges and collection charges which shall from time to time fall due and be unpaid in respect of the charged lands and that such payments, together with all costs, charges, other agents charges for or in respect of the collection of overdue interest, Principal, insurance premiums, taxes and other monies whatsoever payable by the Chargor hereunder, legal fees and costs (as between a solicitor and his own client) servicing fees and all other expenses which may be incurred as a result of default hereunder or in endeavouring to collect, with or without suit any money payable hereunder or in maintaining or preserving or realizing upon the Charge, in taking, recovering and keeping possession of the said lands or in inspecting or managing the same and of negotiating this loan, investigating title and registering the Charge and other necessary deeds, and generally in any other proceedings or actions or steps or matter or thing with or without suit, taken or done in connection with or to protect or realize the security and any other security for this loan or to perfect the title of the lands, (including legal fees and real estate commissions and other costs incurred in leasing or selling the said lands or in exercising the power of entering, leasing and sale herein contained) shall be, with interest at the rate aforesaid, a charge upon the said lands in favour of the Chargee, and the Chargee may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the said lands being prior in interest to the within Charge.

which payments with interest at the rate aforesaid shall likewise be a charge upon the said lands in favour of the Chargee and the Chargee shall be subrogated to all the rights of and shall be entitled to all the equities and securities of the party so satisfied and is hereby authorized to retain any discharges thereof for so long as the Chargee may think fit so to do.

- b) all amounts paid or incurred by the Chargee as aforesaid shall be added to the Principal secured and shall be payable forthwith with interest at the rate aforesaid from the date so incurred, and on default all amounts secured by this Charge shall immediately become due and payable at the option of the Chargee, and all powers in this Charge and at law conferred shall become exercisable.
33. The Chargor shall forthwith on demand pay to the Chargee a servicing fee (including a reasonable charge in respect of time spent by the Chargee's staff but such servicing fee shall not be less than a minimum of \$50.00 as liquidated damages and not as a penalty) for each default, as part of the amount payable to entitle the Chargor to cure each such default hereunder.
34. No right or remedy of the Chargee under the Charge, or which the Chargee may have at law shall be exclusive or dependent on any other right or remedy, but any one or more such rights or remedies may from time to time be exercised independently or in combination, and all such remedies shall be cumulative and concurrent and not alternative, may be pursued separately, successively or together at the sole discretion of the Chargee.

In the event that more than one property is charged by this Charge each property is charged with the whole of the Principal, the Chargor shall not be entitled to require that the Principal be apportioned between the properties charged and any and all remedies pursued by the Chargee against any property shall not release, diminish, alter or exhaust the Chargee's rights against any other property secured.

#### TAKING OF JUDGMENTS NOT A MERGER

35. The taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Chargee's right to interest at the rate and times set out in the Charge; and further that the said judgment shall provide that interest thereon shall be computed at the higher of:
- (a) The same rate and in the same manner as provided in the Charge; or
- (b) The judicial rate allowable pursuant to the Courts of Justice Act of Ontario in the same manner as provided in the Charge, until the said judgment shall have been fully paid and satisfied.

#### RENEWAL OR EXTENSION OF TIME: ATTENTION SUBSEQUENT INTERESTS

36. No extension of time given by the Chargee to the Chargor, or anyone claiming under him, or any other dealing by the Chargee with the owner of the said lands, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other person liable for the payment of the monies hereby secured, and that this Charge may be renewed by an agreement in writing for any term with or without an increased rate of interest or amended from time to time as to any of its terms including without limitation increase of interest rate notwithstanding that there may be subsequent encumbrances. And it shall not be necessary to register any such agreement in order to retain priority for this Charge so altered over any instrument registered subsequently to this Charge. The Chargor shall be bound by the terms and conditions of any such renewal or extension whether or not a party to such agreement. Provided that nothing contained in this paragraph shall confer any right of renewal upon the Chargor.

Provided further that if at the balance due date the balance of Principal remains outstanding and no agreement to the contrary has been made between the Chargor and the Chargee then and in such event the term of the mortgage is hereby automatically extended for a further period of three (3) months repayable interest only monthly calculated monthly at a rate determined as being that rate per annum which is five (5%) percent per annum above the interest rate in effect pursuant to the Charge at the day prior to the balance due date calculated and payable monthly as well after as before maturity and both before and after default on such portion of the Principal as remains from time to time unpaid and the balance of the Principal sum secured then outstanding shall become due and be payable on the date which is three (3) months after the Balance Due Date set out in Paragraph 9(i) on Form 2 hereof.

#### RELEASE OF ANY PART OF PARTS OR OF ANY OTHER SECURITY BY CHARGE

37. The Chargee may at its discretion at any time, release any part or parts of the said lands or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the said lands or any person from this Charge or from any of the covenants herein contained and without being accountable to the Chargor for the value thereof, or for any monies except those actually received by the Chargee, it being especially agreed that every part or lot into which the charged lands are or may hereafter be divided does and shall stand charged with the Principal hereby secured and no person shall have the right to require the Principal to be apportioned.

#### MORTGAGE STATEMENTS

38. In the event that the Chargor or any other party requires a statement with respect to the account pertaining to this Charge, the Chargee shall be entitled to its usual servicing fee for each statement given.
- Provided that if and whenever the Chargee requests an acknowledgement from the Chargor as to the status of the charge account or the status of the terms and covenants of this Charge, the Chargor shall execute such an acknowledgement in the form requested by the Chargee provided that same be true, and shall do so forthwith upon request and without cost to the Chargee and shall return the acknowledgement duly executed within seventy-two (72) hours. Failure to do so shall be considered an act of default within the meaning of this Charge.

#### DISCHARGE

39. The Chargee only shall have the right to prepare or have prepared all discharges, transfers and assignments (and notices thereof) of the Charge and other security additional to the Charge and the Chargee shall have a reasonable period of time after payment of all sums secured within which to prepare and execute a discharge or assignment or transfer of the Charge; and the Chargor shall pay to the Chargee the Chargee's usual servicing fees for providing such discharges, transfers and assignments together with all legal and other expenses and costs incurred by the Chargee for the preparation and execution of same.

#### ADDITIONAL SECURITIES

40. In the event that the Chargee (in addition to the premises secured hereunder) holds further additional securities on account of the indebtedness secured herein, it is agreed that no single or partial exercise of any of the Chargee's powers hereunder or under any of such securities, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such securities or herein. The Chargee shall at all times have the right to proceed against all, any, or any portion of such security or securities in such order and in such manner, cumulatively and concurrently and not alternatively, separately, successively or together as it shall in its sole discretion deem fit, without waiving any rights which the Chargee may have hereunder and with respect to any and all of such securities, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Chargor hereunder and under the remaining securities, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Chargee hereunder and with respect to any and all such securities shall be at an end. Any judgment or recovery hereunder or under any other security held by the Chargee for the monies secured hereunder shall not affect the right of the Chargee to realize upon this or any other such security. Unless agreed to the contrary in writing no discharge of any one or more of such securities and the within Charge shall be given until the full amount of the Principal and interest secured hereby has been paid in full.

### CHANGES IN OWNERSHIP & SPOUSAL STATUS

41. And the Chargor covenants and agrees with the Chargee that forthwith after any change or happening affecting any of the following, namely:
- The spousal status of the Chargor;
  - The qualification of the said lands as a matrimonial home within the meaning of The Family Law Act, 1986, as amended, and;
  - The Ownership of the said lands;
- the Chargor will advise the Chargee accordingly and furnish the Chargee with full particulars thereof, the intention being that the Chargee shall be kept fully informed of the names and addresses of the owner or owners for the time being of the lands and premises and of any spouse who is not an owner but who has a right of possession in the said lands by virtue of the said Act. In furtherance of such intention, the Chargor covenants and agrees to furnish the Chargee with such evidence in connection with any of (a), (b), and (c) above as the Chargee may from time to time request. Provided that nothing herein contained shall confer any right to sell or convey the charged lands.

### SALE OR CHANGE OF CONTROL

42. (a) If the charged property is sold, transferred, conveyed or further charged in any manner whatsoever by the Chargor, or if there is a change in control of the Chargor or a change in the beneficial ownership of the charged property, all sums secured hereunder together with accrued interest and unearned interest thereon until maturity shall at the Chargee's option forthwith become due and payable.
- (b) No sale or other dealing by the Chargor with the lands or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or as against any other person liable for payment of the monies hereby secured.

### EXPROPRIATION

43. Provided that if the said lands shall be expropriated by any Government, authority, body or corporation clothed with the powers of expropriation, the amount of the Principal hereby secured remaining unpaid shall forthwith become due and payable together with interest thereon at the said rate to the date of payment together with a bonus equal to the sum of three months' interest on the amount of the Principal remaining unpaid.

### ASSIGNMENT OF RENTS

44. The Chargor hereby assigns and transfers unto the Chargee all rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal or any letting of, or of any agreement for the use or occupancy of the lands and premises or any part thereof, which may have been heretofore or may be hereafter made or agreed to, or which may be granted, it being the intention of the parties to establish an absolute transfer and assignment of all such rents, issues and profits under such leases and agreements, and all the avails thereunder unto the Chargee.

The Chargor further covenants and agrees to execute and deliver at the request of the Chargee, all such further assurances and assignments with respect to such tenancies as the Chargee shall from time to time require, and shall do all other acts with respect to such tenancies as requested by the Chargee.

In the event that the Chargee collects any payments of rent due to the Chargor's default, the Chargee shall be entitled to receive from such rent a management fee of not less than 5% of the gross receipts from such rent, it being understood for greater certainty that the Chargor and Chargee have agreed that in the circumstances a management fee equal to at least 5% of gross receipts received by the Chargee in the collection of such rents, is a just and equitable fee having regard to the circumstances.

The Chargor covenants and agrees that no rent has been or will be paid in advance by any person in possession of any portion of the lands described herein, except in accordance with the provision herein and any applicable law and that the payment of none of the rents to accrue for any portion of the said lands and premises have been or will be waived, released, reduced, discounted, or otherwise discharged or compromised by the Chargor.

Provided further that the Chargor shall not perform any act or do anything or omit to do anything which will cause the default of any lease in the buildings erected on the charged lands, unless consented to by the Chargee.

And the Chargor agrees that all leases, offers to lease and agreements to lease shall be bona fide and shall be at rates and on terms consistent with those prevailing for comparable space in the area of the lands and premises secured hereunder, and provided further that the Chargor shall obtain the consent of the Chargee prior to the execution of any lease, offer or agreement to lease, or any tenancy agreement having a term exceeding one year.

And nothing contained in this paragraph, nor anything done by virtue of this Charge by the Chargee shall render the Chargee a Chargee in possession or accountable for any monies except those actually received by the Chargee. Nor shall the Chargee be deemed to have adopted any of the leases nor shall the Chargee be deemed to be a Landlord within the meaning of the Landlord and Tenant Act or the Residential Tenancies Act or any similar legislation to the same effect in any jurisdiction whatsoever.

### FINANCIAL STATEMENTS

45. At the option of the Chargee, the Chargor shall within ninety (90) days of the end of each fiscal year of the operation of the charged lands and premises by the Chargor, furnish to the Chargee an audited annual operating statement prepared at the expense of the Chargor, which statement notwithstanding the generality of the foregoing, shall set forth the gross rents and other revenue derived by the Chargor from the charged lands and premises, the costs and expenses of the operation and maintenance of the charged lands and premises and such information and explanations in respect of the foregoing as may be required by the Chargee and such statements shall be required to be prepared by a duly qualified chartered accountant and/or a certified public accountant suitable to the Chargee and the correctness of such statements shall be duly supported by the affidavit of a director or officer of the Chargor.

### RELEASE OF INFORMATION

46. The Chargee is authorized to release or provide information about the Chargor or the Charge to any person claiming a construction lien on the lands, to a Credit Bureau, another credit grantor, or any other person as permitted by law.

### LICENCED PREMISES

47. In the event that this Charge is secured against lands and premises which premises are premises licenced for the carrying on of a business or for a use of any kind the following provisions shall be applicable:
- The Chargor does hereby covenant and agree that all existing licences, permits and authorities issued by any body or authority having licencing jurisdiction, in connection with any business or use of any kind carried on upon the charged premises, shall as of and from the date hereof stand as security for and shall be held by the Chargor for the benefit of the Chargee as security for the observance, performance and carrying out of the terms and conditions of the within Charge until the monies secured herein are fully paid and satisfied.
  - The Chargor covenants and agrees that it has not and will not do or omit to do any act having the effect of terminating, cancelling or preventing the renewal of existing licences, permits and authorities issued by any body or authority having licencing jurisdiction in connection with the storementioned business or special use of any kind carried on upon the charged premises, and the Chargor does further covenant with the Chargee that the Chargor shall comply with, observe, perform and carry out all of the provisions of all legislation governing and controlling and affecting the carrying on of the business or the use being

carried on at the premises as well as complying, observing, performing and carrying out all the provisions of all the rules, regulations and directions required to keep the said licences, permits and authorities in full force and effect. It is acknowledged that failure to observe, perform and carry out the terms and conditions of this provision, resulting in cancellation of the licences, permits and authorities issued for the charged premises shall constitute default under the terms of this Charge and the whole of the Principal sum and Interest hereby secured shall, at the option of the Chargee, forthwith become due and payable.

- (c) The Chargor further agrees and acknowledges that, in the event of default of payment of any monies secured by this Charge as and when such payments become due, or in the event of failure of the Chargor to observe, perform or carry out any of the covenants and agreements in this Charge contained, including the conditions contained in the within paragraph, such event shall and does hereby operate to constitute the Chargee as a successor and assign, subject to the approval of the body or authority or board or commission having licencing jurisdiction in connection with the aforesaid business or use carried on upon the charged premises such approval being for all existing licences, permits and authorities issued by the said body or authority or board or commission having such licencing jurisdiction in connection with the aforementioned business or use carried on upon the charged premises; provided however, this assignment is taken only as security for the due payment of the Principal and Interest hereby secured and as security for the due observance, performance and carrying out of the terms and conditions hereof, and subject to the reservation that none of the rights or remedies of the Chargee shall be merged or prejudiced in any way by the acceptance of this assignment as security.
- (d) In the event of any proceedings being taken by the Chargee by the reason of default being made in payment of the monies hereby secured, then in such event the Chargor shall be deemed to be in default hereunder and the Chargee shall be entitled to exercise its rights hereunder, and to have the Chargee or its nominee or assignee become holder of the above mentioned licences, permits and authorities and to apply to the body or authority or board or commission having the necessary jurisdiction for the approval of the transfer to the Chargee or his nominee or assignee of all the licences, permits and authorities now or hereafter in existence in connection with any business or use carried on or being made of the charged premises.
- (e) This indenture further witnesses that the Chargor and the Guarantor do hereby irrevocably constitute and appoint the Chargee their attorney in the premises to do and perform all acts, matters and things necessary to effectively transfer the said licences, permits and authorities and to vest the same in the Chargee or its nominee or assignees to all intents and purposes as the Chargor itself could do; it being agreed that this power of attorney is only exercisable on default by the Chargor. A statutory declaration that default has occurred under and in respect of the said Charge, and that such default still continues, entitling the Chargee to exercise its rights hereunder, shall be conclusive evidence of the Chargee's rights to exercise the power of attorney hereby given.

DATED the 18TH day of DECEMBER, 1986

THE EQUITABLE TRUST COMPANY

per: \_\_\_\_\_  
President

per: \_\_\_\_\_  
Vice President & Treasurer

ACKNOWLEDGEMENT

This set of Standard Charge Terms is included in a Charge dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
made by:

as Chargor(s)

TO: THE EQUITABLE TRUST COMPANY

as Chargee

and each Chargor hereby acknowledges receiving a copy of this 8 page set of Standard Charge Terms before signing the Charge:

\_\_\_\_\_  
Chargor

\_\_\_\_\_  
Chargor

\_\_\_\_\_  
Chargor

**Properties**

*PIN* 21316 - 0236 LT  
*Description* PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO  
*Address* 1201 ST CLAIR AVENUE WEST  
TORONTO

**Applicant(s)**

The assignor(s) hereby assigns their interest in the rents of the above described land. The notice is based on or affects a valid and existing estate, right, interest or equity in land.

*Name* MALEKI, ALIREZA  
*Address for Service* 187 Gladstone Avenue  
Toronto, Ontario  
M6J 3L3

This is Exhibit "D" referred to in the affidavit of **Rose Gallo** sworn before me, by video conference this 9<sup>th</sup> day of October, 2024

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

*Name* TRUONG, NGA TU  
*Address for Service* 187 Gladstone Avenue  
Toronto, Ontario  
M6J 3L3

  
A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for Fogler, Rubinfeld LLP,  
Barristers and Solicitors,  
Expires March 21, 2027.

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

**Party To(s)***Capacity**Share*

*Name* THE EQUITABLE TRUST COMPANY  
*Address for Service* 30 St. Clair Ave. West, Suite 700, Toronto, Ontario, M4V 3A1

**Statements**

The applicant applies for the entry of a notice of general assignment of rents.

This notice may be deleted by the Land Registrar when the registered instrument, AT3271307 registered on 2013/04/05 to which this notice relates is deleted

Schedule: See Schedules

**Signed By**

Lindsay Mitchell Kazdan 1 Adelaide Street E., Suite 801 acting for Signed 2013 04 05  
Toronto Applicant(s)  
M5C 2V9

Tel 416-869-1234

Fax 4168690547

I have the authority to sign and register the document on behalf of all parties to the document.

Lindsay Mitchell Kazdan 1 Adelaide Street E., Suite 801 acting for Party To Signed 2013 04 05  
Toronto (s)  
M5C 2V9

Tel 416-869-1234

Fax 4168690547

I have the authority to sign and register the document on behalf of all parties to the document.

**Submitted By**

GARFINKLE, BIDERMAN LLP 1 Adelaide Street E., Suite 801 2013 04 05  
Toronto  
M5C 2V9

Tel 416-869-1234

Fax 4168690547

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

**File Number**

Applicant Client File Number :	1562782
Party To Client File Number :	6436-374

**GENERAL ASSIGNMENT**

THIS AGREEMENT made as of the 2<sup>nd</sup> day of April, 2013.

B E T W E E N:

**ALIREZA MALEKI AND NGA TU TRUONG**

(hereinafter called the "Assignor"),

OF THE FIRST PART,

- and -

**THE EQUITABLE TRUST COMPANY**

(hereinafter called the "Assignee"),

OF THE SECOND PART.

**WHEREAS:**

- A. ALI REZA MALEKI AND NGA TU TRUONG are the registered and beneficial owners of the lands described as Part Lots 24 and 25, Plan 1360 Toronto, as in CT590018, City of Toronto, Province of Ontario, and municipally known as: 1201 St. Clair Avenue West, Toronto, Ontario (the "Lands");
- B. Pursuant to the Mortgage, the Assignor mortgaged and charged in favour of the Assignee all of its right, title and interest in and to the Project as security, inter alia, for the due payment of all principal, interest and other monies payable under the Mortgage;
- C. As additional security for the Assignor's covenants and obligations as set out in the Mortgage and set out in all other agreements, documents, instruments, undertakings and commitments entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee pursuant to the Mortgage, the Assignor agreed to assign to the Assignee the Rents and the Leases, together with all benefits, powers and advantages of the Assignor to be derived therefrom.

**NOW THEREFORE THIS ASSIGNMENT WITNESSES** that in consideration of the sum of Ten Dollars (\$10.00) paid by the Assignee to the Assignor (the receipt and sufficiency of which are hereby acknowledged) the parties covenant and agree with each other as follows:

1. **Recitals Correct:** The Assignor confirms the validity and truth of the above-noted recitals, which have the same force and effect as if repeated herein at length.
2. **Definitions:** In this Agreement the following capitalized terms have the respective meanings set out below:
  - (a) **Agreement, this Agreement, the Agreement, hereto, hereof, hereby, hereunder** and similar expressions mean or refer to this entire agreement as amended from time to time and any agreement or instrument supplemental or ancillary hereto or in implementation hereof;
  - (b) **Building** means any construction, erection or structure located on, placed upon or erected in, under or on the Lands, any additions, alterations, expansions, improvements and replacements thereof and includes, without limitation, all equipment, chattels and fixtures which may be owned by the Assignor and may now or hereafter be located in the Building or in any additions, alterations, expansions, improvements and replacements of the foregoing;
  - (c) **Default** has the meaning ascribed thereto in Section 8 hereof;



- (d) **Dispute** has the meaning ascribed thereto in Sub-section 8(b) hereof;
  - (e) **Indebtedness** has the meaning ascribed thereto in Section 3 hereof;
  - (f) **Lands** means the lands so defined in the recitals contained herein;
  - (g) **Leases** means any and all present and future leases or subleases, offers to lease or sublease, letters of intent to lease or sublease and all other agreements to lease or sublease including, without limitation, all other occupancy agreements relating to the whole or any part of parts of the Project made by the Assignor or any predecessor in title of the Assignor, as landlord, and all present and future licences or concessions whereby the Assignor gives any person the right (other than an easement or a right in the nature of an easement) to use or occupy the whole or any part or parts of the Project, in each case for the time being in effect, and all revisions, alterations, modifications, amendments, changes, extensions, renewals, replacements or substitutions thereof or therefor which may hereafter be effected or entered into and **Lease** means any of the Leases;
  - (h) **Mortgage** means that certain mortgage or charge of land made by the Assignor wherein the Assignor did grant and mortgage unto the Assignee the Lands which mortgage or charge was registered on title to the Lands on the same (or nearly the same) date as this General Assignment, as same may be supplemented, amended or modified from time to time;
  - (i) **Interest Rate** means the rate of interest specified in the Mortgage;
  - (j) **Project** means the Lands and the Building;
  - (k) **Rents** means all present and future income, rents, issues, profits and any other monies including rental insurance proceeds and expropriation awards to be derived from, reserved or payable under the Leases; and
  - (l) **Tenant** means any person who is hereafter a party to a Lease or has any right of use or occupancy to all or any part of the Project, whether as a tenant, licensee or concessionaire under a Lease, and **Tenants** means all such persons.
3. **Assignment:** As continuing and additional security for:
- (a) the repayment to the Assignee of all amounts (the Indebtedness) owing from time to time by the Assignor to the Assignee under, in connection with or arising out of or from any agreement entered into by the Assignor with the Assignee with respect to the Project, made by the Assignor in favour of the Assignee with respect to the Project or assigned by the Assignor to the Assignee including, without limitation, the Mortgage; and
  - (b) the due performance by the Assignor of the terms, agreements, provisions, conditions, obligations, and covenants on the part of the Assignor to be performed under the Mortgage and all other agreements, documents, instruments, undertakings and commitments entered into between the Assignor and the Assignee with respect to the Project, made by the Assignor in favour of the Assignee with respect to the Project or assigned by the Assignor to the Assignee;
- the Assignor, upon and subject to the terms of this Agreement, assigns, sets over and transfers to the Assignee all its rights, benefits, title and interest under, in and to, and all claims of whatsoever nature or kind which the Assignor now has or may hereafter have under or pursuant to:
- (a) the Leases;
  - (b) the Rents;

- (c) the benefit of any and all present and future guarantees of and indemnities with respect to any Lease and the performance of any or all of the obligations of any Tenant thereunder; and
- (d) all books, accounts, invoices, letters, papers, drawings and documents in any way evidencing or relating to the Leases, the Rents and any guarantees or indemnities of any Lease;

all of the foregoing described in Subsection 3(a) to and including 3(d) together with all proceeds therefrom are hereinafter collectively called the Premises Hereby Assigned.

4. **Acknowledgement of Assignor:** The Assignor acknowledges that neither this Agreement nor the assignment constituted hereby:

- (a) shall in any way lessen or relieve the Assignor from:
  - (i) the obligation of the Assignor to observe, satisfy and perform each and every term, agreement, provisions, conditions, obligation and covenant set out in any of the Premises Hereby Assigned; and
  - (ii) any liability of the Assignor to each Tenant, the Assignee or to any other person, firm or corporation;
- (b) imposes any obligation on the Assignee to assume any liability or obligations under, or to observe, perform or satisfy any term, agreement, provision, condition, obligation or covenant set out in, any of the Premises Hereby Assigned;
- (c) imposes any liability on the Assignee for any act or omission on its part in connection with this Agreement or the assignment constituted hereby including, without limitation, the fulfillment or non-fulfillment by the Assignee of the obligations, covenants and agreements of the Assignor set out in the Premises Hereby Assigned;
- (d) obligates the Assignee to give notice of this Agreement and the assignment constituted hereby to any Tenant or any other person, firm or corporation whatsoever; provided that the Assignee may, in its absolute discretion, give any such notice at any time or from time to time without further notice to the Assignor; and
- (e) authorizes the Assignor to dispose of or transfer by way of conveyance, mortgage, lease, assignment or otherwise, the Project, the Assignor's interest in the Project or any part of either, except as specifically approved herein.

5. **Positive Covenants of Assignor:** The Assignor covenants and agrees:

- (a) to observe, perform and satisfy each and every term, agreement, provision, condition, obligation and covenant set out in, or required to be observed, performed and satisfied by the Assignor under or pursuant to, the Premises Hereby Assigned;
- (b) to deliver to the Assignee a copy of all written notices, demands or requests given under, in connection with or pursuant to the Premises Hereby Assigned that are:
  - (i) received by the Assignor, forthwith upon receipt of same; and
  - (ii) delivered by the Assignor, contemporaneously with the delivery of same;
- (c) to indemnify and save the Assignee harmless from and against any liabilities, losses, costs, charges, expenses (including legal fees and disbursements on a solicitor and his own client basis) damages, claims, demands actions, suits, proceedings, judgments and forfeitures suffered or incurred by the Assignee in connection with, on account of or by reason of:

- (i) the assignment to the Assignee of the Premises Hereby Assigned;
  - (ii) any alleged obligation of the Assignee to observe, perform or satisfy any term, agreement, provision, condition, obligation or covenant set out in any of the Premises Hereby Assigned;
  - (iii) any failure of the Assignor to observe, perform or satisfy its covenants, agreements, warranties and representations set out in this Agreement including without limitation, subparagraphs 5(a), (b), (d), (e), (f), (g), (h), (i), (j) and (k) hereof; and
  - (iv) the enforcement of the assignment constituted by this Agreement;
- (d) to notify the Assignee in writing as soon as the Assignor becomes aware of any Dispute, claim or litigation in respect of any of the Premises Hereby Assigned or of any breach or default by the Assignor or any other person, firm or corporation in the observance, performance or satisfaction of any of the terms, agreements, provisions, conditions, obligations or covenants set out in the Premises Hereby Assigned;
  - (e) to obtain such consents from third parties including, without limitation, Tenants as may be necessary or required by the Assignee in connection with the assignment constituted by this Agreement;
  - (f) upon the written request of the Assignee, to execute and deliver to the Assignee specific assignments of any of the Leases duly acknowledged by the respective Tenants under such Leases, which specific assignments shall be in form and substance acceptable to the Assignee;
  - (g) to use its best efforts to ensure that each Lease shall be entered into by it in good faith, at arm's length, at a rent and otherwise upon such terms and conditions as are reasonable and proper in the circumstances and are upon prevailing market terms and conditions;
  - (h) to deliver to the Assignee, at the request of the Assignee from time to time, a notarial copy of any Lease and of any guarantee or indemnity in respect of the obligations of any Tenant under a Lease;
  - (i) to execute and deliver to each Tenant and the Assignee, at the request of the Assignee from time to time, a written notice to each Tenant directing such Tenants to pay the Rents and all other sums owing under the Leases to the Assignee;
  - (j) that each of the warranties and representations of the Assignor set out in this Agreement is now and will continue to be true and correct until the Indebtedness is paid in full; and
  - (k) that it will pay or cause to be paid to the Assignee or pursuant to the Assignee's direction, upon demand, all costs, charges, fees and expenses including, without limitation, legal fees and disbursements on a solicitor and his own client basis, court costs and any other out-of-pocket costs and expenses incurred by the Assignee in connection with or arising out of or with respect to this Agreement including, without limitation, any one or more of the following:
    - (i) the negotiation, preparation, execution and enforcement of this Agreement and all documents, agreements and other writings incidental or ancillary hereto;
    - (ii) any act done or taken pursuant to this Agreement including, without limitation, recovering the Indebtedness and registering, discharging and reassigning this Agreement;

- (iii) the preservation, protection, enforcement or realization of the Premises Hereby Assigned including, without limitation, retaking, holding, repairing, preparing for disposition and disposing of the Premises Hereby Assigned;
- (iv) any action or other proceeding instituted by the Assignor, the Assignee or any other person, firm or corporation in connection with or in any way relating to:
  - (1) this Agreement or any part hereof;
  - (2) the preservation, protection, enforcement or realization of the Premises Hereby Assigned; or
  - (3) the recovery of the Indebtedness; and
- (v) all amounts incurred or paid by the Assignor pursuant to paragraph 8 hereof;

together with interest thereon from the date of the incurring of such expenses at the then Interest Rate calculated monthly and adjusted daily, whether any action or any judicial proceedings to enforce the aforesaid payments has been taken or not, the amount owing to the Assignee under this subparagraph shall be added to the Indebtedness.

6. **Negative Covenants of Assignor:** The Assignor covenants and agrees that it shall not:

- (a) sell, assign, transfer, dispose of, collect, receive or accept any of the Premises Hereby Assigned including, without limitation, the Rents except as may be permitted in this Agreement, nor do, nor permit to be done, any act or thing whereby the Assignee may be prevented or hindered from so doing;
- (b) pledge, charge, mortgage, hypothecate, create a security interest in or otherwise encumber the Premises Hereby Assigned or any part thereof in any manner whatsoever other than to the Assignee;
- (c) cancel, terminate or forfeit or take any action to cancel, terminate or forfeit or suffer or permit anything allowing any Tenant under any Lease to cancel, terminate, forfeit any of the Premises Hereby Assigned, or accept or agree to the surrender of, or take any action or suffer or permit anything allowing the surrender of any of the Premises Hereby Assigned;
- (d) waive, amend, modify or vary any of the terms, agreements, provisions, conditions, obligations and covenants set out in the Premises Hereby Assigned, or otherwise agree or consent to any waiver, amendment, modification or variation of any of them, whether by way of collateral agreement or otherwise; or
- (e) waive or agree to waive any failure of any party to any of the Premises Hereby Assigned including, without limitation, any Tenants, to observe, perform or satisfy any of the terms, agreements, provisions, conditions, obligations or covenants set out in any of the Premises Hereby Assigned;

however, the Assignor may do those matters referred to in Subsections 6(c), (d) and (e) hereof, if:

- (f) the Tenant has been declared or adjudged bankrupt; or
- (g) the action taken is in accordance with good business practice, on an arm's length basis and in good faith and the action is one which a prudent owner of property similar to the Project would take, considering all the relevant circumstances including, without limitation, the then current leasing practices and market conditions.

7. **Representations and Warranties of Assignor:** The Assignor represents and warrants to the Assignee that:
- (a) each of the Premises Hereby Assigned including, without limitation, each of the Leases in effect as of the date hereof, is valid and subsisting, is in full force and effect, unamended, in good standing and there are no defaults thereunder;
  - (b) the Assignor has good, valid and legal right to absolutely assign and transfer to the Assignee the Premises Hereby Assigned, free and clear of all assignments, mortgages, charges, pledges, security interest and other encumbrances other than those in favour of the Assignee;
  - (c) the Assignor has taken all necessary action, corporate or otherwise, to authorize the execution and delivery of this Agreement and the performance of its obligations set out in this Agreement and in each of the Leases;
  - (d) the execution, delivery and performance of this Agreement and the assignment constituted hereby will not conflict with, be in or contribute to a contravention, breach or default under the Assignor's constating documents, by-laws, resolutions or the provisions of any indenture, instrument, agreement or undertaking to which the Assignor is a party or by which it is bound, or under any valid regulation, order, writ or decree of any court, tribunal, arbitration panel or governmental authority;
  - (e) this Agreement has been duly executed and when delivered, will be in full force and effect and constitutes a legal, valid and binding obligation of the Assignor, enforceable in accordance with its terms;
  - (f) there is no pending or threatened litigation, action, claim or fact known to the Assignor and not disclosed to the Assignee in writing which adversely affect or could adversely affect any of the Premises Hereby Assigned or the rights of the Assignor or any other party thereunder or the rights of the Assignee under this Agreement;
  - (g) none of the Premises Hereby Assigned in existence on the date hereof is incapable of assignment to the Assignee in accordance with the provisions of this Agreement, nor is any of the Premises Hereby Assigned incapable of further assignment by the Assignee or by any receiver or receiver and manager, nor is the consent of any third party required for any assignment set out in this Agreement or in connection with any further assignment by the Assignee; and
  - (h) no Rents, payments, proceeds, receipts or other distributions due or to become due on any date subsequent to the date of this Agreement have been collected in advance of the time when the same become due under the terms of any of the Premises Hereby Assigned.
8. **Enforcement Upon Default:** Without limiting in any manner whatsoever the Assignee's rights, remedies, and recourses pursuant to this Agreement, by operation of law or otherwise, if the Assignor has defaulted in the performance, fulfillment or satisfaction of any of the terms, agreements, provisions, conditions, obligations or covenants set out in this Agreement, the Mortgage or any other agreement, document, instrument, commitment or undertaking entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee or if the Assignor is otherwise in breach of or in default (hereinafter collectively called a Default) under this Agreement, the Mortgage or any other agreement, document, instrument, commitment or undertaking entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee, then the Assignee and any receiver or any receiver and manager appointed by the Assignee, may from time to time and at any time, in its own name or in the name of the Assignor and without notice to the Assignor, do any one or more of the following:

- (a) observe, perform or satisfy any term, agreement, provision, condition, obligation or covenant which, pursuant to any of the Premises Hereby Assigned, could or should be observed, performed or satisfied by the Assignor;
- (b) exercise any of the rights, powers, authority and discretion which, pursuant to any of the Premises Hereby Assigned, by operation of law or otherwise, could be exercised, observed, performed or satisfied by the Assignor including, without limitation, amending and renewing the Leases and otherwise dealing with the Tenants and others and participating in all settlement negotiations and arbitration proceedings resulting from a dispute (the Dispute) arising out of, in connection with or pursuant to any of the Premises Hereby Assigned; and
- (c) collect any Rents, proceeds, receipts or income arising from or out of the Premises Hereby Assigned including, without limitation, the institution of proceedings, whether in the name of the Assignor or the Assignee or both, for the collection of same.

The Assignor further acknowledges and agrees that all costs, charges and expenses incurred by the Assignee in connection with doing anything permitted in this paragraph 8 including, without limitation, legal fees and disbursements on a solicitor and his own client basis, shall be forthwith paid by the Assignor to the Assignee.

9. **Assignee Not Liable:** The Assignee shall not be bound to exercise any of the rights afforded to it hereunder nor to collect, dispose of, realize, preserve or enforce any of the Premises Hereby Assigned. The Assignee shall not be liable or responsible to the Assignor or any other person for the fulfillment or non-fulfillment of this Agreement or the terms, obligations, covenants or agreements set out in this Agreement or for any loss or damage incurred or suffered by the Assignor or any other person, firm or corporation as a result of:
- (a) any delay by, or any failure of, the Assignee to:
    - (i) exercise any of the rights afforded to it under this Agreement; or
    - (ii) collect, dispose of, realize, preserve or enforce any of the Premises Hereby Assigned; or
  - (b) the negligence (but not the wilful misconduct) of any officer, servant, agent, counsel or other attorney or substitute employed by the Assignee in the exercise of the rights afforded to the Assignee hereunder, or in the collection disposition, realization, preservation or enforcement of the Premises Hereby Assigned.
10. **Application of Funds:** Any amount received by the Assignee arising out of or from the collection, disposition, realization or enforcement of any of the Premises Hereby Assigned, after all costs, charges and expenses incurred by the Assignee in connection therewith have been deducted therefrom, shall be applied in reduction of the Indebtedness. Notwithstanding the generality of the foregoing, the Assignee shall be entitled to apply all or any part of such amounts received by it on account of such part or parts of the Indebtedness, in such manner and at such times or from time to time, as the Assignee deems best and the Assignee may at any time and from time to time change any such application.
11. **Further Assurances:** The Assignor covenants and agrees to execute all such further assignments and other documents and to do all such further acts and things including, without limitation, obtaining any consent which are required by the Assignee, from time to time, to more effectively assign, set over and transfer the Premises Hereby Assigned to the Assignee including, without limitation, execute and deliver one or more specific assignments of the Assignor's rights, benefits, title and interest in any of the agreements, documents, commitments and other writings that constitute the Premises Hereby Assigned in form, substance and execution satisfactory to the Assignee, to perfect and keep perfected the security interest constituted hereby and to assist in the collection, disposition, realization or enforcement thereof, and the Assignee is hereby irrevocably constituted the true and lawful

attorney of the Assignor, with full power of substitution, to execute in the name of the Assignor any assignment or other document for such purposes.

12. **Information:** The Assignor covenants and agrees that from time to time forthwith upon the request of the Assignee it shall furnish to the Assignee in writing all information requested by the Assignee relating to the Premises Hereby Assigned.
13. **Payment of Rent Under Leases:** Until a Default occurs the Assignor shall have the authority:
- (a) to collect any Rents and other moneys properly payable or arising out of or from the Premises Hereby Assigned; and
  - (b) subject to Section 6 hereof, to exercise in good faith all of the benefits, advantages and powers as landlord under the Premises Hereby Assigned;

and upon the occurrence of a Default such authority shall immediately cease without further notice and thereafter any monies received by the Assignor arising out of or from any of the Premises Hereby Assigned shall be received and held in trust for the Assignee and forthwith remitted to the Assignee. The Assignee may, at any time or times, by notice to any Tenant, direct such Tenant to pay Rent and other moneys to the Assignee and such notice shall be good and sufficient authority for any Tenant so doing. Any payment of Rents and other moneys by a Tenant to the Assignee shall not constitute a default under such Tenant's Lease. The receipt by the Assignee of Rent or other moneys from a Tenant shall constitute and be deemed receipt thereof by the Assignor.

14. **No Novation:** This assignment and transfer to the Assignee of the Premises Hereby Assigned:
- (a) is continuing security granted to the Assignee without novation or impairment of any other existing or future security held by the Assignee in order to secure payment to the Assignee of the Indebtedness and the due performance of the Assignor's obligation's under the Mortgage and all other agreements, documents, instruments, undertakings and commitments entered into between the Assignor and the Assignee, made by the Assignor in favour of the Assignee or assigned by the Assignor to the Assignee relating to the Project;
  - (b) is in addition to and not in substitution for any other security now or hereafter granted to or held by the Assignee in connection with the Indebtedness; and
  - (c) shall remain in full force and effect without regard to and shall not be affected or impaired by:
    - (i) any amendment or modification of or addition or supplement to the Mortgage or any other security or securities (the Additional Securities) now or hereafter held by or on behalf of the Assignee in connection with the Indebtedness or any part thereof;
    - (ii) any exercise or non-exercise of any right, remedy, power or privilege in respect of this Agreement, the Mortgage or the Additional Securities;
    - (iii) any waiver, consent, extension, indulgence or other action, inaction or omission under or in respect of this Agreement, the Mortgage or the Additional Securities;
    - (iv) any default by the Assignor under, or any invalidity or unenforceability of, or any limitation on the liability of the Assignor or on the method or terms of payment under, or any irregularity or other defect in, the Mortgage or the Additional Security;

- (v) any merger, consolidation or amalgamation of the Assignor into or with any other company or corporation; or
  - (vi) any insolvency, bankruptcy, liquidation, reorganization, arrangement, composition, winding-up, dissolution or similar proceeding involving or affecting the Assignor.
15. **Re-assignment:** Upon the Indebtedness being paid in full, the Assignee shall, within a reasonable time following its receipt of a written request from the Assignor and at the sole cost and expense of the Assignor, reassign the Premises Hereby Assigned to the Assignor including, without limitation, all of the Assignee's rights, benefits, title and interest in and to the Premises Hereby Assigned.
16. **Enurement:** This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.
17. **Notices:** Any notice, demand, request, consent, agreement or approval which may or is required to be given pursuant to this Agreement shall be in writing and shall be sufficiently given or made if served personally upon the party for whom it is intended, or (except in the case of an actual or pending disruption of postal service) mailed by registered mail:
- (a) if to the Assignor, addressed to it at:
 

Ali Reza Maleki and Nga Tu Truong  
187 Gladstone Avenue  
Toronto, Ontario  
M6J 3L3
  - (b) if to the Assignee, addressed to it at:
 

The Equitable Trust Company  
30 St. Clair Ave. West, Suite 700  
Toronto, Ontario  
M4V 3A1

Attention: Vice-President, Mortgage Administration
- Any of the parties hereto may, from time to time, change its address or stipulate another address from the address described above in the manner provided in this paragraph. The date of receipt of any such notice, demand, request, consent, agreement or approval, if served personally, shall be deemed to be the date of delivery thereof, or if mailed as aforesaid, the fourth business day following the date of mailing. For the purposes hereof, personal service on the Assignor shall be effectively given by delivery to an officer, director or employee of the Assignor.
18. **Waiver:** No consent or waiver, express or implied, by the Assignee to or of any breach or default by the Assignor in the performance of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by the Assignor of its obligations hereunder. Failure on the part of the Assignee to complain of any act or failure to act of the Assignor or to declare the Assignor in default, irrespective of how long such failure continues, shall not constitute a waiver by the Assignee of its rights hereunder.
19. **Amendments:** This Agreement may not be modified or amended except with the written consent of the Assignee and the Assignor.
20. **Entire Agreement:** This Agreement constitutes the entire agreement between the Assignee and the Assignor pertaining to the assignment of the Premises Hereby Assigned and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, relating thereto.



21. **Assignment:** The Assignee may assign, transfer, negotiate, pledge or otherwise hypothecate this Agreement, any of the Premises Hereby Assigned, any of its rights hereunder or any part thereof and all rights and remedies of the Assignee in connection with the interest so assigned shall be enforceable against the Assignor as the same would have been by the Assignee but for such assignment.
22. **No Agency, Joint Venture or Partnership:** The Assignee is not the agent, representative, partner of or joint-venturer with the Assignor, and the Assignor is not the agent, representative, partner of or joint-venturer with the Assignee, and this Agreement shall not be construed to make the Assignee liable to any person or persons for goods or services furnished to, on behalf of or for the benefit of the Assignor nor for debts, liability or claims accruing therefrom against the Assignor.
23. **Rights, Powers and Remedies:** Each right, power and remedy of the Assignee provided for herein or available at law or in equity or in any other agreement shall be separate and in addition to every other such right, power and remedy. Any one or more and/or any combination of such rights, remedies and powers may be exercised by the Assignee from time to time and no such exercise shall exhaust the rights, remedies or powers of the Assignee or preclude the Assignee from exercising any one or more of such rights, remedies and powers or any combination thereof from time to time thereafter or simultaneously.
24. **Survival:** All covenants, undertakings, agreements, representations and warranties made by the Assignor in this Agreement and any instruments delivered pursuant to or in connection herewith, shall survive the execution and delivery of this Agreement and any advances made by the Assignee to the Assignor, and shall continue in full force and effect until the Indebtedness is paid in full. All representations and warranties made by the Assignor shall be deemed to have been relied upon by the Assignee.
25. **Severability:** Any term, condition or provision of this Agreement which is or is deemed to be void, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be severable herefrom, be ineffective to the extent of such avoidance, prohibition or unenforceability without invalidating the remaining terms, conditions, and provisions hereof and any such avoidance, prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such term, condition or provision in any other jurisdiction.
26. **Governing Law:** This Agreement, and the interpretation, construction, application and enforcement of this Agreement, shall be governed by and construed, in all respects, exclusively in accordance with the laws of the Province of Ontario.
27. **Headings:** The insertion in this Agreement of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.
28. **Number and Gender:** All nouns and personal pronouns relating thereto shall be read and construed as the number and gender may require and the verb shall be read and construed as agreeing with the noun and pronoun.
29. **Registrations:** Neither the preparation, execution nor any registrations or filings with respect hereto, shall bind the Assignee to make an advance under the Mortgage.
30. **Receipt of Copy:** The Assignor acknowledges receipt of a copy of this Agreement.

SECURITY AGREEMENT

THIS AGREEMENT is made this 2<sup>nd</sup> day of April, 2013.

BETWEEN:

**THE EQUITABLE TRUST COMPANY**  
30 St. Clair Ave. West, Suite 700  
Toronto, Ontario M4V 3A1

(hereinafter called the "Secured Party")

- and -

**ALI REZA MALEKI AND NGA TU TRUONG**  
187 Gladstone Avenue  
Toronto, Ontario M6J 3L3

(hereinafter called the "Debtor")

This is Exhibit "E" referred to in the affidavit of **Rose Gallo** sworn before me, by video conference this 9<sup>th</sup> day of October, 2024

  
A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for **Fogler, Rubinoff LLP,**  
Barristers and Solicitors.  
Expires March 21, 2027.

OF THE FIRST PART,

OF THE SECOND PART.

**1.0 CONSIDERATION**

(1) For valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the Debtor enters into this security agreement (the "Agreement") with the Secured Party.

(2) Obligations Secured

The Security Interest (as hereinafter defined) is granted to the Secured Party by the Debtor as continuing security for the payment of all past, present and future indebtedness and for the payment and performance of all other present and future obligations of the Debtor to the Secured Party, whether direct or indirect, contingent or absolute (including obligations under this Agreement) (collectively the "Obligations").

**2.0 CREATION OF SECURITY INTEREST**

(1) The Debtor grants, mortgages, charges, transfers, assigns, creates to and in favour of the Secured Party as and by way of a fixed and specific charge and as and by way of a floating charge, a security interest (the "Security Interest") in the present and future undertaking, property and assets of the Debtor and in all goods (including all parts, accessories, attachments, special tools, additions and accessions thereto), chattel paper, documents of title (whether negotiable or not), instruments, intangibles and securities now owned or hereafter owned or acquired by or on behalf of Debtor (including such as may be returned to or repossessed by Debtor) and in all proceeds and renewals thereof, accretions thereto and substitutions therefor (hereinafter collectively called "Collateral"), including, without limitation, all of the following now owned or hereafter owned or acquired by or on behalf of Debtor:

- (i) **Inventory** - all goods now or hereafter comprising part of the inventory of the Debtor including but not limited to goods now or hereafter held for sale or lease or furnished or to be furnished under a contract of service or that are raw materials, work in process or materials used or consumed in a business or profession or finished goods, goods used for packing, materials used in the business of the Debtor not intended for sale and goods acquired or held for sale or furnished or to be furnished under contracts of rental or service;

- (ii) **Equipment** - all goods now or hereafter used or intended to be used in any business of the Debtor (and which are not inventory) including but not limited to fixtures, plant, tools, furniture, equipment, machinery, appliances, heating and cooling, plumbing, electrical, mechanical, all spare parts, accessories installed in or affixed or attached to any of the foregoing, and all drawings, specifications, plans and manuals relating thereto, vehicles and other tangible personal property;
- (iii) **Accounts** - all accounts, debts, demands and choses in action which are now due, owing or accruing due or which may hereafter become due, owing or accruing due to the Debtor, and all claims of any kind which the Debtor now has or may hereafter have including but not limited to claims against the Crown and claims under insurance policies and accounts receivable, and all contracts, security interests and other rights and benefits in respect thereof;
- (iv) **Chattel Paper** - all chattel paper now or hereafter owned by the Debtor, all present and future agreements made between the Debtor as secured party and others which evidence back a monetary obligation and a security interest in or lease of specific goods;
- (v) **Documents of Title** - all warehouse receipts, bills of lading and other documents of title, whether negotiable or non-negotiable, now or hereafter owned by the Debtor;
- (vi) **Documents** - with respect to the personal property described in subparagraphs (iii), (iv) and (v), all books, accounts, invoices, letters, papers, documents and other records in any form evidencing or relating thereto and all contracts, securities, instruments and other rights and benefits in respect thereof;
- (vii) **Securities** - all present and future securities held by the Debtor, including shares, options, rights, warrants, joint venture interests, interests in limited partnerships, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Debtor in property or in an enterprise or which constitutes evidence of an obligation of the issuer; and including an uncertified security within the meaning of Part VI (investment securities) of the *Business Corporations Act, (Ontario)* and all substitutions therefor, and dividends and income derived therefrom;
- (viii) **Proceeds** - all personal property in any form derived directly or indirectly, from any dealings with collateral or subject to the Security Interest or the proceeds therefrom, and including any payment representing indemnity or compensation for loss or damage thereto or the proceeds therefrom;
- (ix) **Intangibles** - all goodwill, contract rights, patents, trade marks, licences copyrights and other industrial and/or other intellectual property and all other intangibles and other choses in action of the Debtor of every kind, whether owned or otherwise provided to the Debtor for its use at the present time or hereafter to become owned or otherwise provided to the Debtor for its use;
- (x) with respect to the personal property described in subparagraphs (i) to (ix) inclusive, all substitutions and replacements thereof, increases, additions and accessions thereto and any interest of the Debtor therein;
- (xi) with respect to the personal property described in subparagraphs (i) to (x) inclusive, personal property in any form or fixtures derived directly or indirectly from any dealing with such property or that indemnifies or compensates for such property destroyed or damaged;
- (xii) **Money** - all present and future monies of the Debtor (other than trust monies lawfully belonging to others) whether authorized or adopted by the Parliament of Canada or as part of its currency or any foreign government as part of its currency; and
- (xiii) all property described in any schedule now or hereafter annexed hereto.

(2) The last day of the term of any lease, sublease or agreement therefor is specifically excepted from the Security Interest, but the Debtor agrees to stand in possession of such last day in trust for any person acquiring such interest of the Debtor. To the extent that the creation of the Security Interest would constitute a breach or cause the acceleration of any agreement, right, licence or permit to which the Debtor is a party, the Security Interest shall not attach thereto but the Debtor shall hold its interest therein in trust for the Secured Party and shall assign such agreement, right, licence or permit to the Secured Party forthwith upon obtaining the consent of the other party thereto.

(3) The terms "goods", "chattel paper", "documents of title", "instruments", "intangibles", "securities", "proceeds", "inventory", "monies" and "accessions" whenever used herein shall be interpreted pursuant to their respective meanings when used in the *Personal Property Security Act of Ontario*, as amended from time to time, which Act, including amendments thereto and any Act substituted therefor and amendments thereto is herein referred to as the "P.P.S.A." Provided always that the term "goods" when used herein shall not include "consumer goods" of Debtor as that term is defined in the P.P.S.A., and the term "inventory" when used herein shall include livestock and the young thereof after conception and crops that become such within one year of execution of this Agreement. Any reference herein to "Collateral" shall, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof". In this Agreement "Collateral" shall include the proceeds thereof.

**Notwithstanding the generality of the foregoing, the Security Interest created by this Agreement affects only all present and future personal property of the Debtor as hereinbefore defined as "Collateral" located on or about, or in transit to or from, or associated with the Debtor's business and assets situate on, that property in the City of Toronto and municipally known as 1201 St. Clair Avenue West, Toronto, Ontario, as more particularly described in Schedule "A" attached hereto. The Debtor agrees to forthwith execute and deliver at its own expense, from time to time, such amendments to this Agreement or such additional security agreements as may be required by the Secured Party, to ensure that the Security Interest shall attach, and shall remain attached, to such personal property.**

### **3.0 DEALINGS WITH COLLATERAL**

Until the occurrence of an Event of Default (as hereinafter defined) the Debtor may sell its inventory and collect its accounts in the ordinary course of business; provided that all accounts so collected shall be held by the Debtor as agent and in trust for the Secured Party and paid to the Secured Party immediately upon its request. The Debtor agrees to deposit all proceeds from the disposition of inventory into its ordinary operating general business bank account. The Secured Party shall have the right at any time and from time to time to confirm the existence and state of Collateral in any manner Secured Party may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as Secured Party may reasonably request in connection therewith and for such purpose to grant to Secured Party or its agents access during normal business hours to all places where Collateral may be located and to all premises occupied by Debtor.

### **4.0 RECEIPT OF INCOME FROM AND INTEREST ON COLLATERAL**

(1) Until default, Debtor shall have the right to receive any monies constituting income from or interest on Collateral and if Secured Party receives any such monies prior to default, Secured Party shall either credit the same to the account of Debtor or pay the same promptly to Debtor.

(2) After default Debtor will not request or receive any monies constituting income from, or interest on, Collateral and if Debtor receives any such monies without any request by it, Debtor will receive the same in trust for, and promptly pay the same to, Secured Party.

### **5.0 INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS REGARDING COLLATERAL**

(1) With respect to collateral which is Securities, whether or not default has occurred, Debtor authorizes Secured Party:

- (i) to receive any increase in or profits on Collateral (other than money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of paragraph 4 hereof and dealt with accordingly; and

- (ii) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor; and to hold any such payment or distribution as part of Collateral.

(2) If Debtor receives any such increases or profits (other than money) or payments or distributions, Debtor will receive the same in trust for and deliver the same promptly to Secured Party to be held by Secured Party as herein provided.

#### **6.0 SECURITIES FORMING PART OF COLLATERAL**

Upon default, if Collateral at any time includes securities, Debtor authorizes Secured Party to transfer the same or any part thereof into its own name so that Secured Party may appear on record as the sole owner thereof; provided that, until default, Secured Party shall deliver promptly to Debtor all notices or other communications received by it as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to Debtor or its order a proxy to vote and take all action with respect to such securities. After default, Debtor waives all rights to receive any notices or communications received by Secured Party as such registered owner and agrees that no proxy issued by Secured Party to Debtor or its order as aforesaid shall thereafter be effective.

#### **7.0 COLLECTION OF DEBTS FORMING PART OF COLLATERAL**

Before or after default under this Agreement, Secured Party may notify all or any account debtors (as hereinafter defined) of the Security Interest and may also direct such account debtors to make all payments on Collateral to Secured Party. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from account debtors after default under this Agreement, whether before or after notification of the Security Interest to account debtors, shall be received and held by Debtor in trust for Secured Party and shall be turned over to Secured Party upon request.

#### **8.0 REPRESENTATIONS AND WARRANTIES OF DEBTOR**

Debtor represents, warrants and acknowledges that Secured Party is relying thereupon and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant that:

(1) The Collateral is or will be when Collateral is acquired genuine and beneficially owned by Debtor free of all security interests, mortgages, liens, claims, charges, taxes, assessments or other encumbrances, pledges (hereinafter collectively called "encumbrances"), except for those Security Interests set out in Schedule "B" hereof;

(2) Each account, chattel paper and instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "account debtor"), and the amount represented by Debtor to Secured Party from time to time as owing by each account debtor or by all account debtors will be the correct amount actually and unconditionally owing by such debtor or account debtors, except for normal cash discounts where applicable;

(3) The locations specified in Schedule "A" as to business operations and records of Debtor are accurate and complete and, with respect to goods (including inventory) constituting Collateral, the locations specified in Schedule "A" are accurate and complete save for goods in transit to such locations and all fixtures or goods about to become fixtures which form part of the Collateral will be situate at one of such locations;

(4) The Debtor has, or will have when Collateral is acquired, the capacity, authority and the right to create mortgages and charges of, and grant a security interest in the Collateral in favour of the Secured Party and generally perform its obligation under this Agreement;

(5) This Agreement has been duly and properly authorized by all necessary action and constitutes a legal, valid and binding obligation of the Debtor; and

(6) The Collateral does not include any goods which are used or acquired by the Debtor for use primarily for personal, family or household purposes.

## 9.0 COVENANTS OF DEBTOR

So long as this Agreement remains in effect Debtor covenants and agrees:

- (1) **Payment** - To pay or satisfy all Obligations when due;
- (2) **Encumbrances** - To defend the Collateral against the claims and demands of all other parties claiming the same or an interest therein; to keep the Collateral or any part thereof free from all encumbrances, except for the Security Interest; and except as otherwise provided herein, not to sell, exchange, transfer, assign, lease, or otherwise dispose of Collateral or any interest therein without the prior written consent of Secured Party;
- (3) **Notice to Secured Party:** - To notify Secured Party promptly of:
  - (i) any significant change in the information contained herein or in the schedules hereto relating to Debtor, Debtor's business or Collateral;
  - (ii) the details of any significant acquisition of Collateral; the details of any claims or litigation of a material nature affecting Debtor or Collateral;
  - (iii) any material loss of or damage to Collateral;
  - (iv) any default by any account debtor in payment or other performance of Nga Tu Truong obligations hereunder; and
  - (v) the return to or repossession by Debtor of Collateral.
- (4) **Care of Collateral** - To keep the Collateral in good order, condition and repair (reasonable wear and tear excepted) and not to use Collateral in violation of the provisions of this Agreement or any other agreement relating to Collateral or any policy insuring Collateral or any applicable statute, law, by-law, rule, regulation or ordinance;
- (5) **Further Assurances** - To do, execute, acknowledge and deliver such financing statements and further assignments, transfers, documents, acts, matters and things (including further schedules hereto) as may be reasonably requested by Secured Party of or with respect to Collateral in order to give effect to these presents and to pay all costs for searches and filings in connection therewith;
- (6) **Taxes and Charges** - To pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same become due and payable, except for such taxes, rates, levies, assessments and other charges which are being contested in good faith by proper legal proceedings and with respect to which adequate reserves have been established and are being maintained;
- (7) **Insurance** - To carry insurance from financially responsible insurance companies and to maintain such insurance against fire, theft, water damage, public liability, property damage, business interruption losses and all other related risks, with loss payable to Secured Party, to cover the full insurable value of the Collateral as Secured Party may reasonably require or, in the absence of such requirement, to the extent insured against by comparable corporations engaged in comparable businesses and owning or operating similar properties, and to deliver to Secured Party copies of all policies, renewals and replacements within fifteen (15) days of their issue and delivery to Debtor, and to cause Secured Party to be named as loss payee on such policies;
- (8) **Accession** - To prevent Collateral, except for inventory sold or leased as permitted hereby, from being or becoming an accession to other property not covered by this Agreement;
- (9) **Business Activities** - To carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and the earnings, incomes, rents, issues and profits thereof and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral, at Secured Party's request, so as to indicate the Security Interest;
- (10) **Deliveries** - To deliver to Secured Party from time to time promptly upon request:

- (i) Any documents of title, instruments, securities and chattel paper constituting, representing or relating to Collateral;
- (ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;
- (iii) all financial statements prepared by or for Debtor regarding Debtor's business, including aged lists of inventory and accounts;
- (iv) all policies and certificates of insurance relating to Collateral; and
- (v) such information concerning Collateral, the Debtor and Debtor's business and affairs as Secured Party may reasonably request.

(11) **Conformity** - To duly observe and conform to all valid requirements of any governmental authority relative to any of the Collateral and all covenants, terms and conditions upon or under which the Collateral is held.

(12) **Maintain Existence** - The Debtor shall maintain its existence and shall not change its name or amalgamate or sell, exchange, assign or lease or otherwise dispose of the Collateral or any interest therein without the prior written consent of the Secured Party except that until an event of default as described in paragraph 10.0 occurs, the Debtor may sell or lease inventory in the ordinary course of its business.

(13) **Payment of Expenses** - To pay all expenses, including solicitors' and receivers' fees and disbursements incurred by the Secured Party or its agents (including any receiver, as hereinafter defined) in connection with the preparation, perfection, preservation and enforcement of this Agreement; including but not limited to all expenses incurred by the Secured Party or such agents in dealing with other creditors of the Debtor in connection with the establishment and confirmation of the priority of the Security Interest, all of which expenses shall be payable forthwith upon demand and shall form part of the Obligations.

Upon failure by the Debtor to perform any of the covenants described in this paragraph, the Secured Party is authorized and has the option to take possession of the Collateral and, whether it has taken possession or not, to perform any of the agreements in any manner deemed proper by the Secured Party, without waiving any rights to enforce this Agreement. The reasonable expenses (including the cost of any insurance and payment of taxes or the charges and reasonable legal costs on a solicitor and client basis) incurred by the Secured Party in respect of the custody, preservation, use or operation of the Collateral shall be deemed advanced to the Debtor by the Secured Party, shall bear interest at the rate (the "Interest Rate") set forth in a Charge/Mortgage of Land of even date herewith and issued by Debtor in favour of the Secured Party and shall be secured by this Agreement.

## 10.0 **EVENTS OF DEFAULT**

The happening of any of the following events or conditions shall constitute default hereunder which is herein referred to as "default" or an "Event of Default":

- (1) The Debtor fails to satisfy or perform any of the Obligations when due;
- (2) The nonpayment when due, whether by acceleration or otherwise, of any principal or interest forming part of the indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement between Debtor and Secured Party and such failure has not been waived or cured within any applicable period of grace;
- (3) The bankruptcy or insolvency of Debtor or any guarantor of the indebtedness; the filing against Debtor or any guarantor of the indebtedness of a petition in bankruptcy; the making of an authorized assignment for the benefit of creditors by Debtor or any guarantor of the indebtedness; the appointment of a receiver or trustee for Debtor or any guarantor of the indebtedness or for any assets of Debtor or any guarantor of the indebtedness; or the institution by or against Debtor or any guarantor of the indebtedness of any other type of insolvency proceeding under the *Bankruptcy and Insolvency Act* or otherwise;

- (4) The institution by or against the Debtor or any guarantor of the indebtedness of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of affairs of Debtor or any guarantor of the indebtedness;
- (5) If any encumbrance affecting the Collateral becomes enforceable against the Collateral;
- (6) If Debtor or any guarantor of the indebtedness ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets without complying with applicable law or commits or threatens to commit an act of bankruptcy;
- (7) If any execution, sequestration, extent or other process of any court becomes enforceable against Debtor or any guarantor of the indebtedness or if a distress or analogous process is levied upon the assets of Debtor or any guarantor of the indebtedness or any part thereof;
- (8) If any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Agreement, or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to Secured Party to enter into this or any other agreement with Debtor, proves to have been false in any material respect at the time as of which the facts therein set forth were stated or certified or becomes incorrect in any respect at any time or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement, warranty or audit report, which change shall not have been disclosed to Secured Party at or prior to the time of such execution; and
- (9) If Secured Party, in good faith, believes and has commercially reasonable grounds to believe that the prospect of payment of any indebtedness or performance of the Obligations is or is about to be placed in jeopardy.

#### **11.0 ACCELERATION**

Secured Party, in its sole discretion, may declare all or any part of the indebtedness which is not by its terms payable on demand to be immediately due and payable, without demand or notice of any kind, in the event of default.

#### **12.0 REMEDIES**

(1) Upon default, if the Secured Party declares that the indebtedness shall become immediately due and payable in full, the Debtor and the Secured Party shall have, in addition to any other rights and remedies provided by law, the rights and remedies of a debtor and a secured party respectively under the P.P.S.A and this Agreement. Secured Party may appoint or re-appoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of Secured Party or not, to be a receiver or receivers (hereinafter called a "receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any receiver so appointed and appoint another in his stead. Any such receiver shall, so far as concerns responsibility for his acts, be deemed the agent of Debtor and not Secured Party, and Secured Party shall not be in any way be responsible for any misconduct, negligence, or nonfeasance on the part of any such receiver, his servants, agents or employees. Subject to the provisions of the instrument appointing him, any such receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of Collateral. To facilitate the foregoing powers, any such receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to enable him to carry on Debtor's business or otherwise as such receiver shall in his discretion determine. Except as may be otherwise directed by Secured Party, all monies received from time to time by such receiver in carrying out his appointment shall be received in trust for and paid over to Secured Party. Every such receiver may, in the discretion of Secured Party, be vested with all or any of the rights and powers of Secured Party.



(2) Upon default, Secured Party may, either directly or through its agents or nominees, exercise all the powers and rights given to a receiver by virtue of the foregoing subparagraph (1).

(3) Secured Party may take possession of, collect, demand, sue on, enforce, recover and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof and, upon default, Secured Party may sell, lease or otherwise dispose of Collateral in such manner, at such time or times and place or places, at public auction, by public tender or by private sale, for such consideration and upon such terms and conditions as to Secured Party may seem reasonable.

(4) Secured Party shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute proceedings for such purposes. Furthermore, Secured Party shall have no obligation to take any steps to preserve rights against prior parties to any instrument or chattel paper, whether Collateral or proceeds, and whether or not in Secured Party's possession and shall not be liable or accountable for failure to do so.

(5) Debtor acknowledges that Secured Party or any receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees upon request from Secured Party or any such receiver to assemble and deliver possession of Collateral at such place or places as directed.

(6) Debtor agrees to pay all costs, charges and expenses reasonably incurred by Secured Party or any receiver appointed by it, whether directly or for services rendered (including legal costs on a solicitor and client basis and auditors' costs and receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Agreement, taking custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by Secured Party or any receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

(7) Unless the Collateral in question is perishable or unless Secured Party believes on reasonable grounds that the Collateral in question will decline speedily in value, Secured Party will give Debtor such notice of the date, time and place of any public sale or of the date after which any private disposition of Collateral is to be made, as may be required by the *Personal Property Security Act*.

### **13.0 STANDARDS OF SALE**

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

- (1) Collateral may be disposed of in whole or in part;
- (2) Collateral may be disposed of by public sale upon written notice to the Debtor following one advertisement in a newspaper having general circulation in the location of the Collateral to be sold at least seven (7) days prior to such sale;
- (3) Collateral may be disposed of by private sale after receipt by the Secured Party of two (2) written offers;
- (4) The purchaser or lessee of such Collateral may be a customer of the Secured Party; and
- (5) The disposition may be cash or credit or part cash or credit; and the Secured Party may establish a reserve in respect of all or any portion of the Collateral.

### **14.0 DISPOSITION OF MONIES**

Any proceeds of any disposition of any of the Collateral may be applied by Secured Party to the payment of expenses incurred in connection with the retaking, holding, repairing, processing, preparing for disposition and disposing of the Collateral (including legal costs on a solicitor and client basis and any other reasonable expenses), and any balance of such proceeds may be applied by Secured Party towards the payment of the indebtedness in such order of application as Secured Party may from time to

time effect. All such expenses and all amount's borrowed on the security of the Collateral under paragraph 12.0 hereof shall bear interest at the Interest Rate and shall be included as the indebtedness under this Agreement. If the disposition of the Collateral fails to satisfy the indebtedness and the expenses incurred by Secured Party, Debtor shall be liable to pay for any deficiency on demand.

#### **15.0 MISCELLANEOUS**

(1) Debtor hereby authorizes Secured Party to file such financing statements and other documents and do such acts, matters and things (including completing and adding schedules hereto identifying Collateral or any permitted encumbrances affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as Secured Party may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest and Debtor hereby irrevocably constitutes and appoints Secured Party (or the president from time to time of Secured Party) the true and lawful attorney of Debtor, with full power of substitution, to do any of the foregoing in the name of Debtor whenever and wherever it may be deemed necessary or expedient.

(2) Upon Debtor's failure to perform any of its duties hereunder, Secured Party may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to Secured Party, forthwith upon written demand therefor, an amount equal to the expense incurred by Secured Party in so doing plus interest thereon from the date such expense is incurred until it is paid at the Interest Rate.

(3) Secured Party may grant extensions of time and other indulgences, take and give security, accept compositions, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as Secured Party may see fit without prejudice to the liability of Debtor or Secured Party's right to hold and realize the Security Interest. Furthermore, Secured Party may demand, collect and sue on Collateral in either Debtor's or Secured Party's name, at Secured Party's option, and may endorse Debtor's name on any and all cheques, commercial paper and any other instruments pertaining to or constituting Collateral.

(4) No delay or omission by Secured Party in exercising any right or remedy hereunder or with respect to any indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Furthermore, Secured Party may remedy any default by Debtor hereunder or with respect to any indebtedness in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by Debtor. All rights and remedies of Secured Party granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.

(5) Debtor waives protest of any instrument constituting Collateral at any time held by Secured Party on which Debtor is in any way liable and, subject to subparagraph 15 (8) hereof, notice of any other action taken by Secured Party.

(6) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. In any action brought by an assignee of this Agreement and the Security Interest or any part thereof to enforce any rights hereunder, Debtor shall not assert against the assignee any claim or defence which Debtor now has or hereafter may have against Secured Party.

(7) Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

(8) This Agreement and the transactions evidenced hereby shall be governed by and construed in accordance with the laws of the Province of Ontario as the same may from time to time be in effect, including the *Personal Property Security Act*.

(9) Subject to the requirements of subparagraph 15(7), any notice to Debtor in connection with this Agreement shall be well and sufficiently given if sent by prepaid registered mail to or delivered to Debtor at the address set out on page one hereof or to such other address as Debtor may from time to time designate in writing to Secured Party. Any notice to Secured Party in connection with this Agreement shall be well and sufficiently given if sent by prepaid registered mail or delivered to Secured Party at the address set out on page one or to such other address as Secured Party may from time to time

designate in writing to Debtor. Any such notice shall be deemed to have been given if delivered, when delivered, and if mailed, on the fourth business day following that on which it was mailed. In the event of a known interruption of postal services, any notice required or contemplated herein shall be deemed to have been delivered to Debtor only if delivered by hand to Debtor at the address specified herein or pursuant hereto and to Secured Party only if delivered by hand to Secured Party at the address specified herein or pursuant hereto.

(10) This Agreement and the Security Interest is in addition to and not in substitution for any other security now or hereafter held by Secured Party and is intended to be a continuing Agreement and shall remain in full force and effect until the indebtedness has been paid in full.

(11) In this Agreement the term "successors" shall include (and without limiting its meaning) any corporation resulting from the amalgamation of one corporation with another corporation.

(12) The headings used in this Agreement are for convenience only and are not to be considered a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

(13) When the context so requires, the singular number shall be read as if the plural were expressed and the provisions hereof shall be read with all grammatical changes necessary dependent upon the person referred to being a male, female, firm or corporation.

(14) In the event any provisions of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain in full force and effect.

(15) The parties acknowledge that value has been given and the Security Interest created hereby is intended to attach when this Agreement is signed by Debtor and Debtor agrees that it is not the intention of Secured Party or Debtor to postpone the attachment of the Security Interest and accordingly, attachment, as defined in the P.P.S.A, will occur simultaneously upon the execution of this Agreement.

(16) Time shall be of the essence of this Agreement.

(17) If this Agreement has been executed by more than one Debtor, the obligations of each Debtor shall be joint and several.

(18) This Agreement, including any schedules attached hereto, constitutes the entire agreement between the Debtor and the Secured Party relating to the subject matter hereof, and no amendment shall be effective unless made in writing. There are no representations, warranties or collateral agreements in effect between the Debtor and Secured Party relating to the subject matter hereof; and possession of an executed copy of this Agreement by the Secured Party constitutes conclusive evidence that it was executed and delivered by the Debtor free of all conditions.

(19) This Agreement and the Obligations may be assigned in whole or in part by the Secured Party to any person, firm or corporation without notice or consent of the Debtor. This Agreement may not be assigned by the Debtor without the prior written consent of the Secured Party.

(20) Notwithstanding any provision to the contrary contained in this agreement, in no event shall the aggregate "interest" (as defined in Section 347 of the Criminal Code, R.S.C. 1985, c. 46 as the same may be amended, replaced or re-enacted from time to time) payable under this agreement exceed the maximum amount of interest on the "credit advanced" (as defined in that section) under this agreement lawfully permitted under that section and, if any payment, collection or demand pursuant to this agreement in respect of "interest" (as defined in that section) is determined to be contrary to the provisions of that section, such payment, collection or demand shall be deemed to have been made by mutual mistake of the Secured Party and the Debtor and the amount of such payment or collection shall be refunded to the Debtor. For purposes of this agreement, the effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices and principles over the term that the Loan is outstanding on the basis of annual compounding of the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Secured Party will be conclusive for the purposes of such determination.

(21) Nothing contained in this Agreement, including the execution of same and/or the filing of a financing statement(s) shall obligate the Secured Party to make any loan to or accommodation to the Debtor or to extend the time for payment or satisfaction of any Obligations.

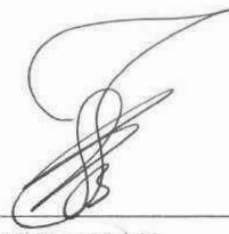
**16.0 ACKNOWLEDGEMENTS OF DEBTOR**

Debtor hereby acknowledges receipt of an executed copy of this Agreement and that the failure of Secured Party to receive full payment or satisfaction of the indebtedness through its rights and remedies herein provided shall not in any way release the Debtor who covenants to pay or satisfy any deficiency.

**IN WITNESS WHEREOF** this Security Agreement has been signed, sealed and delivered on the date set out above.

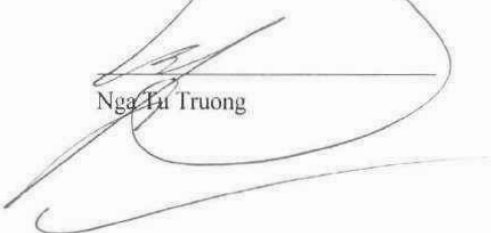
SIGNED, SEALED & DELIVERED  
In the presence of:

Witness: Saul Jonas  
*(as to all signatures)*




---

Ali Reza Maleki




---

Nga Tu Truong

## SCHEDULE "A"

**Location of Business**

Part Lots 24 and 25, Plan 1360 Toronto, as in CT590018, City of Toronto, Province of Ontario, and municipally known as: 1201 St. Clair Avenue West, Toronto, Ontario.

**Location Of Records Relating To Collateral**

Part Lots 24 and 25, Plan 1360 Toronto, as in CT590018, City of Toronto, Province of Ontario, and municipally known as: 1201 St. Clair Avenue West, Toronto, Ontario and/or the home address of the Debtor.

**Location of Collateral**

Part Lots 24 and 25, Plan 1360 Toronto, as in CT590018, City of Toronto, Province of Ontario, and municipally known as: 1201 St. Clair Avenue West, Toronto, Ontario.

SCHEDULE "B"

PERSONAL PROPERTY SECURITY ACT  
SUMMARY

NIL



PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND  
REGISTRY  
OFFICE #66

21316-0236 (LT)

PAGE 1 OF 2  
PREPARED FOR Gaheelim  
ON 2024/02/14 AT 10:05:47

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

**PROPERTY DESCRIPTION:** PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO

**PROPERTY REMARKS:**

**ESTATE/QUALIFIER:**

FEE SIMPLE  
LT CONVERSION QUALIFIED

**RECENTLY:**

FIRST CONVERSION FROM BOOK

**PIN CREATION DATE:**

2002/12/16

**OWNERS' NAMES**

TRUONG, TU NGA

**CAPACITY SHARE**

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p>** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **</p> <p>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</p> <p>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN.</p> <p>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.</p> <p>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</p> <p>**DATE OF CONVERSION TO LAND TITLES: 2002/12/16 **</p>						
CT638539	1983/12/29	AGREEMENT			THE CITY OF TORONTO THE MUNICIPALITY OF METROPOLITAN TORONTO	C
REMARKS: ENCROACHMENT						
CT638540	1983/12/29	AGREEMENT			THE CITY OF TORONTO THE MUNICIPALITY OF METROPOLITAN TORONTO	C
REMARKS: ENCROACHMENT						
AT3271307	2013/04/05	CHARGE	\$612,500	MALEKI, ALIREZA TRUONG, NGA TU	THE EQUITABLE TRUST COMPANY	C
AT3271308	2013/04/05	NO ASSGN RENT GEN		MALEKI, ALIREZA TRUONG, NGA TU	THE EQUITABLE TRUST COMPANY	C
REMARKS: AT3271307-RENTS						
AT3272178	2013/04/08	CHARGE	\$437,400	MALEKI, ALIREZA TRUONG, NGA TU	THE EQUITABLE TRUST COMPANY	C
AT5028757	2018/12/10	TRANSFER		MALEKI, ALIREZA	TRUONG, TU NGA	C

This is Exhibit "F" referred to in the affidavit of **Rose Gallo** sworn before me, by video conference this 9<sup>th</sup> day of October, 2024

A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for **Fogler, Rubloff LLP,**  
Barristers and Solicitors.  
Expires March 21, 2027.

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND  
REGISTRY  
OFFICE #66

21316-0236 (LT)

PAGE 2 OF 2  
PREPARED FOR Gaheelim  
ON 2024/02/14 AT 10:05:47

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
		<i>REMARKS: PLANNING ACT STATEMENTS.</i>				
AT5256725	2019/10/04	LIEN		TRUONG, NGA TU  HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		C
AT6220446	2022/11/09	LIEN		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE		C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



**Properties**

PIN 21316 - 0236 LT  
 Description PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO  
 Address 1201 ST CLAIR AVENUE WEST  
 TORONTO

**Claimant(s)**

Name HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL  
 REVENUE  
 Address for Service CANADA REVENUE AGENCY  
 1 FRONT STREET WEST  
 TORONTO ON M5J 2X6

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

This document is being authorized by a representative of the Crown.

**Statements**

Schedule: See Schedules

**Signed By**

Andrea Catherine Hill	1 Front Street West Toronto M5J 2X6	acting for Applicant(s)	Signed	2019 10 04
-----------------------	---	----------------------------	--------	------------

Tel 416-952-6590

Fax 416-954-5742

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

**Submitted By**

CANADA REVENUE AGENCY	1 Front Street West Toronto M5J 2X6	2019 10 04
-----------------------	---	------------

Tel 416-952-6590

Fax 416-954-5742

**Fees/Taxes/Payment**

Statutory Registration Fee	\$64.40
Total Paid	\$64.40

This is Exhibit "G" referred to in  
 the affidavit of **Rose Gallo**  
 sworn before me, by video conference  
 this 9<sup>th</sup> day of October, 2024



A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
 Province of Ontario, for **Fogler, Rubinoff LLP,**  
 Barristers and Solicitors.  
 Expires March 21, 2027.

**NOTICE OF LIEN PURSUANT TO SUBSECTION 223(5) AND (6) OF THE INCOME TAX ACT****CONSIDERATION: \$28,490.66**

**WHEREAS** pursuant to subsection 223(2) and (3) of the Income Tax Act, any amount payable or any part of the amount payable by a tax debtor (the “amount”) and that amount remains unpaid the amount may be certified by the Minister of National Revenue and registered in the Federal Court of Canada (the ‘Court’) at which point the certificate is deemed to be a judgment against the tax debtor;

**WHEREAS** pursuant to subsection 223(5) and (6) of the Income Tax Act, a document which the Court has issued, and which evidences a certificate of that Court upon registration on title or otherwise recorded creates a charge, lien or priority on, or a binding interest in property that the tax debtor holds;

**AND WHEREAS NGA TU TRUONG** is indebted to the Minister of National Revenue for income taxes and other amounts totalling **\$28,490.66** at the date of issuance of the Certificate in **Court File Number ITA-9493-19** by the Court, together with interest at such rate or rates as determined from time to time by Section 161 of the Income Tax Act;

**AND WHEREAS NGA TU TRUONG** has an interest in the lands described in this notice.

**NOW THEREFORE TAKE NOTICE that HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE** claims a lien and charge against the interest of **NGA TU TRUONG** on the lands described in this notice.

Such lien charges have priority over all encumbrances or claims registered or attaching to the subject property subsequent to the registration of this notice.

**Properties**

**PIN** 21316 - 0236 LT  
**Description** PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO  
**Address** 1201 ST CLAIR AVENUE WEST  
TORONTO

**Claimant(s)**

**Name** HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE  
**Address for Service** Canada Revenue Agency  
Attn: Support Staff  
166 Frederick St  
Kitchener, ON  
N2H 0A9

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

This document is being authorized by a representative of the Crown.

**Statements**

Schedule: See Schedules

**Signed By**

Katarzyna Clay 166 Frederick St., 2nd Floor acting for Signed 2022 11 09  
Kitchener Applicant(s)  
N2H 0A9

Tel 866-323-0336

Fax 519-570-5424

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

**Submitted By**

CANADA REVENUE AGENCY 166 Frederick St., 2nd Floor 2022 11 09  
Kitchener  
N2H 0A9

Tel 866-323-0336

Fax 519-570-5424

**Fees/Taxes/Payment**

**Statutory Registration Fee** \$69.00

**Total Paid** \$69.00

**File Number**

**Claimant Client File Number :** ITA303122

This is Exhibit "H" referred to in  
the affidavit of **Rose Gallo**  
sworn before me, by video conference  
this 9<sup>th</sup> day of October, 2024



A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for **Fogler, Rubinoff LLP,**  
Barristers and Solicitors.  
Expires March 21, 2027.

**NOTICE OF LIEN PURSUANT TO SUBSECTION 223(5) AND (6) OF THE INCOME TAX ACT**

**CONSIDERATIONS: \$2,545,138.59**

**WHEREAS** pursuant to subsection 223(2) and (3) of the Income Tax Act, any amount payable or any part of the amount payable by a tax debtor (the “amount”) and that amount remains unpaid the amount may be certified by the Minister of National Revenue and registered in the Federal Court of Canada (the “Court”) at which point the certificate is deemed to be a judgement against the tax debtor;

**WHEREAS** pursuant to subsection 223(5) and (6) of the Income Tax Act, a document which the Court has issued, and which evidences a certificate of the Court upon registration on title or otherwise recorded creates a charge, lien or priority on, or binding interest in property that the tax debtor holds;

**AND WHEREAS TU NGA TRUONG (SOMETIME KNOWN AS NGA TU TRUONG AND NGA TRUONG)** is indebted to the Minister of National Revenue for income taxes and other amounts totalling **\$2,545,138.59** at the date of issuance of the Certificate in **Court File Number ITA-3031-22** by the Court, together with interest at such rate or rates as determined from time to time by section 161 of the Income Tax Act;

**AND WHEREAS TU NGA TRUONG (SOMETIME KNOWN AS NGA TU TRUONG AND NGA TRUONG)** has an interest in the lands described in this notice.

**NOW THEREFORE TAKE NOTICE** that **HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE** claims a lien and charge against the interest of **TU NGA TRUONG (SOMETIME KNOWN AS NGA TU TRUONG AND NGA TRUONG)** in the lands described in this notice.

Such lien charges have priority over all encumbrances or claims registered or attaching to the subject property subsequent to the registration of this notice.



63 Mimico Ave.  
Toronto, Ontario M8V 1R2  
**Tel: 416-255-0035**  
www.cremationcare.ca

A Division of G.H. Hogle Funeral Home Limited

### Proof of Death Certificate

Name: TU NGA TRUONG MALEKI  
Age: 61  
Address: 187 Gladstone Avenue, Toronto, Ontario M6J 3L3  
Place of Death: Toronto, Ontario  
Place of Birth: Vietnam  
Date of Birth: October 6, 1961  
Date of Death: September 8, 2023  
Disposition at: St. John's Dixie Crematorium  
737 Dundas St. W., Mississauga Ontario


We hereby certify that the above information has been taken from our records and we believe it to be true and correct.

Dated at Toronto, Ontario, Canada  
On September 13, 2023

This is Exhibit "I" referred to in  
the affidavit of **Rose Gallo**  
sworn before me, by video conference  
this 9<sup>th</sup> day of October, 2024

  
A COMMISSIONER FOR TAKING AFFIDAVITS

Karen Anne Fox, a Commissioner, etc.,  
Province of Ontario, for Fogler, Rubino LLP,  
Barristers and Solicitors.  
Expires March 21, 2027.

  
Per: The CremationCare Centre



Court file number: 2024-010118



FORM 74C

Courts of Justice Act

ONTARIO

SUPERIOR COURT OF JUSTICE

This is Exhibit "J" referred to in the affidavit of **Rose Gallo** sworn before me, by video conference this 9<sup>th</sup> day of October, 2024

*Karen Fox*  
A COMMISSIONER FOR TAKING AFFIDAVITS

Karen Anne Fox, a Commissioner, etc.,  
Province of Ontario, for Fogler, Rubinoff LLP,  
Barristers and Solicitors.  
Expires March 21, 2027.

### CERTIFICATE OF APPOINTMENT OF ESTATE TRUSTEE

IN THE ESTATE OF **TU NGA TRUONG** also known as **TU NGA TRUONG MALEKI**, deceased, who died on September 8, 2023.

with a Will dated 18/10/2021     with Codicil(s) dated [DD/MM/YYYY]     without a Will

and whose residence at the time of death was:

Street address	187 Gladstone Ave.
City or town	Toronto
Province/State	Ontario
Postal code/Zip code	M6L 3L3
Country	CA
Occupation:	Property Manager

(Reproduce the following section for multiple applicants.)

Applicant name:	Ali	Reza	Maleki
Current Occupation, if any:	Property Manager		
Street address	2 Bonacres Ave.		
City or town	Scarborough		
Province/State	ON		
Postal code/Zip Code	M1C 1P7		
Country	CA		
E-mail address, if any	beepal13@yahoo.com		
Telephone number	416-820-4511		
If corporate applicant, name of trust officer			

(Check **only one** of the following and **delete all others**. If possible, fit all of the required information below, including the line for the registrar's signature, onto this page.)

THIS

- Certificate of Appointment of Estate Trustee with a Will
- Certificate of Appointment of Estate Trustee with a Will Limited to the Assets Referred to in the Will
- Certificate of Appointment of Estate Trustee without a Will
- Certificate of Appointment of Foreign Estate Trustee's Nominee as Estate Trustee without a Will
- Certificate of Appointment of Succeeding Estate Trustee with a Will
- Certificate of Appointment of Succeeding Estate Trustee without a Will

- Certificate of Appointment of Succeeding Estate Trustee with a Will Limited to the Assets Referred to in the Will
- Certificate of Appointment of Estate Trustee During Litigation
- Certificate of Ancillary Appointment of Estate Trustee with a Will
- Confirmation by Resealing of Appointment of Estate Trustee

is hereby issued to the above-named applicant under the seal of the court.

ESTATE OF *TU NGA TRUONG* also known as *TU NGA TRUONG MALEKI*

Court file number: 2024-010118

Attached to this document is a copy of the deceased's last Will dated *October 18, 2021*.

*If a person has renounced their right to a certificate of appointment of estate trustee, TIFFANY EASTER MALEKI and LEXINE VIVI MALEKI has renounced the right to a certificate of appointment of estate trustee")*

AUG 21 2024

Shavonne Godfrey

DATE:

Registrar

Address of court office

330 UNIVERSITY AVE.	330 AVE. UNIVERSITY
9TH FLOOR	9E ÉTAGE
TORONTO, ONTARIO	TORONTO, ONTARIO
M5G 1R7	M5G 1R7



RCP-E 74C (February 1, 2022)

THIS IS THE LAST WILL AND TESTAMENT OF ME TU NGA TRUONG of the City of Toronto in the Province of Ontario.

### 1. REVOCATION

I HEREBY REVOKE all prior wills and other testamentary dispositions made by me.

### 2. TRUSTEE AND EXECUTOR

I HEREBY NOMINATE AND APPOINT as my Trustees and Executrices under this my will my daughters TIFFANY EASTER MALEKI and LEXINE VIVI MALEKI.

I DECLARE that the expression 'Trustee' or 'Trustees' whenever used in this my will shall mean and include the trustee, trustees, executor, executrix, executors or executrices for the time being and from time to time of this my will whether original or substituted.

### 3. TRANSFER TO MY Trustee

I GIVE, DEVISE AND BEQUEATH all of my property, both real and personal, of every nature and kind, wheresoever situate, including any property over which I may have a general power of appointment, to my Trustee upon the following trusts:

#### DEBTS

(a) To pay out of and charge to the general capital of my estate all my just debts, funeral and testamentary expenses as soon as conveniently may be after my death.

#### DEATH TAXES

(b) My Trustee shall pay out of and charge to the capital of my general estate as if the same were debts of mine incurred by me during my lifetime all succession, estate and inheritance duties or taxes whether imposed by or pursuant to the law of this or any other jurisdiction whatsoever (hereinafter referred to as 'death taxes') that may be payable by reason of my death in respect of any benefit, gift, devise, bequest, annuity or legacy given by me in my lifetime or by this my will or by a codicil hereto or in respect of any insurance on my life or any property passing by survivorship or under any power of appointment exercised by me or any property deemed by any governing law to pass on my death and to be taxable as part of my estate, it being my intention that the recipients or beneficiaries thereof shall receive the same without deduction of the amount of any such death taxes; and my Trustee may pay (and commute and repay) all such death taxes within a period of six months after my death or at such later date (whether or not overdue) as he in their absolute discretion shall

SA 9 16



deem advisable. This discretion shall not extend to nor include any such death taxes in respect of any property included in my estate by reason of the same being acquired on or after my death for inadequate consideration by a purchaser or transferee, other than my spouse or a child of mine or a trustee or trustees on their or behalf, pursuant to an agreement between such purchaser or transferee and myself or pursuant to any condition or restriction attaching to the transfer or acquisition of any property of mine.

#### RESIDUARY ESTATE

(c) I DIRECT my trustee to divide my estate equally among my daughters Tiffany Easter Maleki and Lexine Vivi Maleki.

#### 4. INVESTMENT

I declare that my Trustee when making investments for my estate shall not be limited to investments authorized by law for trustees but may make any investments which he may think best.

#### 5. CONVERSION

I authorize my Trustee to use their discretion in the realization of my estate with power to sell, call in, and convert into money any part of my estate not consisting of money at such time or times, in such manner and upon such terms, and either for cash or credit as he in their absolute discretion may decide upon, or to postpone such conversion of my estate or any part or parts thereof for such length of time as he may deem advisable and in so doing to postpone the sale or conversion of any part of the same indefinitely or for such period as he may deem appropriate and to execute and deliver all deeds and other instruments to make good and sufficient title thereto. My Trustee shall have a separate and substantive power to retain any of my investments or assets in the form existing at the date of my death at their absolute discretion without responsibility for loss to the extent that investments or assets so retained shall be deemed to be authorized investments for all purposes of this my Will. No reversionary or future interest shall be sold prior to falling into possession and no such interest not actually producing income shall be treated as producing income.

#### 6. REAL PROPERTY

I authorize my Trustee to sell, partition, exchange or otherwise dispose of the whole or any part of my real property in such manner at such time and upon such terms as to credit or otherwise as he in their discretion may consider advisable, with power to accept purchase money, mortgage or mortgages for any part of the purchase or exchange price; also to mortgage, lease for any term of years, alter, repair, improve or rebuild the same as he may deem expedient. I also give to my Trustee power to execute and deliver such deeds, mortgages, leases or other instruments as may be necessary to effect such a sale, mortgage, lease or other disposition. The power of sale herein is discretionary and not mandatory.

*[Handwritten initials]*

## 7. DISTRIBUTION IN SPECIE

My Trustee in making any division of my estate or any part thereof or in setting aside or paying any share or interest therein may either wholly or in part divide, set aside or pay over in specie the assets forming my estate at the time of such division, setting aside or payment of such of the said assets as he may deem advisable and I expressly will and declare that my Trustee may in their absolute discretion fix the value of my estate and of the assets thereof and any part or parts thereof for the purpose of making any such division, setting aside or payment or for any purpose in the administration of my estate and the decision of my Trustee shall be final and binding on all persons concerned and upon any division or distribution to determine to whom specified assets shall be given or allocated and to divide or distribute the same subject to the payment of such amounts as shall be necessary to adjust the shares of the various beneficiaries.

IN WITNESS WHEREOF I have to this my last Will, written upon this and the preceding pages, subscribed my name this 18<sup>th</sup> day of October, 2021

SIGNED, PUBLISHED AND DECLARED

by the said Testatrix  
TU NGA TRUONG  
as her last Will,  
in the presence of us,  
both present at the same time,  
who at the request of the Testatrix  
and in the presence of the Testatrix  
and in the presence of each other  
have hereunto subscribed  
our names as witnesses.

  
TU NGA TRUONG

  
JENNIFER LYN SCOTT  
60 Kingsview Drive  
Bolton, Ontario, L7E 5V5

legal assistant

  
ABRAHAM JONAS  
1679 Dundas Street West  
Toronto, Ontario  
M6K 1V2  
(416) 961-3474  
Lawyer



FORM 4C  
*Courts of Justice Act*  
**BACKSHEET**

**ESTATE OF TU NGA TRUONG also Known as TU TRUONG  
MALEKI**

**Court file no.2024-010118**

*Ontario Superior Court of Justice)*

PROCEEDING COMMENCED AT TORONTO

**CERTIFICATE OF APPOINTMENT OF ESTATE TRUSTEE**

Abraham Jonas, LL.B.  
*Barrister, Solicitor, Notary Public*  
1679 Dundas Street West  
Toronto, Ontario, M6K 1V2  
Phone (416) 961-3474 Fax (416) 961-8094  
Email: [abraham@jonaslaw.ca](mailto:abraham@jonaslaw.ca)

*Law society membership number of lawyer: 58938G*

RCP-E 4C (September 1, 2020)



This is Exhibit "K" referred to in  
the affidavit of **Rose Gallo**  
sworn before me, by video conference  
this 9<sup>th</sup> day of October, 2024

  
A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for Fogler, Rubinoff LLP,  
Barristers and Solicitors.  
Expires March 21, 2027.

**Fogler, Rubinoff LLP**  
Lawyers

77 King Street West  
Suite 3000, PO Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8  
t: 416.864.9700 | f: 416.941.8852  
foglers.com

January 11, 2024

Law Clerk: Medina Young  
Direct Dial: 416.864.9700 x204  
E-mail: myoung@foglers.com  
Cell No: 905-758-0530  
Our File No. 225723

**VIA MAIL AND EMAIL: BEEPME11@GMAIL.COM ; BEEPME54@YAHOO.COM ;  
BEEPAL13@YAHOO.COM**

**PERSONAL AND CONFIDENTIAL**

Estate of Nga Truong  
187 Gladstone Avenue  
Toronto, Ontario  
M6J 3L3

Dear Sir/Madame:

**Re: Equitable Bank mortgage loan to the Estate of Nga Truong on 1201 St. Clair  
Avenue West, Toronto, Ontario  
Mortgage No: 152782**

Please be advised that we are solicitors for the above-noted mortgagee. **When contacting our office regarding this matter, please reference the property address.**

Our client has advised that you are in arrears under the above-noted mortgage and our client has instructed us to collect payment arrears and legal costs with respect to your mortgage. The amount required to bring your mortgage into good standing as of January 11, 2024, is as follows:

3 MONTHLY MORTGAGE PAYMENTS @ \$6,466.22 representing November 5, 2023, December 5, 2023 and January 5, 2024	\$19,398.66
LENDER'S LEGAL ACTION ADMINISTRATION FEE	\$1,000.00
DISBURSEMENTS OF FOGLER, RUBINOFF, LLP	\$47.22
LEGAL FEES	\$575.00
FOR HST ON LEGAL FEES AND DISBURSEMENTS	\$80.89
<b>TOTAL:</b>	<b>\$21,101.77</b>

\*Certain amounts not reflected on this statement, including late interest charges, will affect the amount of payment allocated to principal.

TAKE NOTICE that unless our client is in receipt of your direct payment, CERTIFIED CHEQUE OR BANK DRAFT payable to **Equitable Bank** in the amount of **\$21,101.77** on or before **January 26, 2024**, we have been instructed to commence such proceedings against you as our client deems necessary without any further notice to you.

Please deliver payment directly to **Equitable Bank** located at **30 St. Clair Avenue West, Suite 700, Toronto, Ontario M4V 3A1, Attention: Default Department** and indicate the **Mortgage No. 152782** on the payment. Please ensure to provide our office with a scan copy of the payment along with the tracking number so our client can track and confirm receipt of the payment. If you make payment by direct payment through your bank, please provide us with a screen shot of the payment confirmation.

**Please also note that you are no longer on PAC while in default and the PAC will not be reinstated until the default is remedied.**

UNCERTIFIED CHEQUES AND PARTIAL PAYMENTS WILL NOT BE ACCEPTED.

In addition, we require the following:

**1. executed Borrower Contact Information Form.**

Regards,

**FOGLER, RUBINOFF LLP**

Per: Medina Young

Medina Young  
Law Clerk

*\*\* Executed pursuant to the Electronic Commerce Act*

JF/my

Encl.

cc: Equitable Bank;

**BORROWER CONTACT INFORMATION****Please fill out this form and provide prior to closing.****Loan Number:** \_\_\_\_\_

Borrower(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Suite \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Security Address: \_\_\_\_\_ Suite \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Home Number: ( ) \_\_\_\_\_

Mobile Number: ( ) \_\_\_\_\_

Work Number: ( ) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Emergency Contact: \_\_\_\_\_ Relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Home Number: ( ) \_\_\_\_\_

Mobile Number: ( ) \_\_\_\_\_

Work Number: ( ) \_\_\_\_\_

**Authorization**

We, the undersigned, authorize The Equitable Trust Company to collect and retain the information contained in this form pursuant to the privacy and confidentiality policy set out on the bottom of this form.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: \_\_\_\_\_

Privacy and Confidentiality Policy

Equitable Trust observes the following principles:

1. Only such information as is necessary to conduct business, is collected, used and retained. Where personal information is needed, wherever possible, it is obtained directly from the person concerned. We only use sources believed to be reputable and reliable, to supplement this information.
2. The information is retained as long as it is needed by us, or required by law. We take reasonable efforts to secure and protect this information.
3. Internal access to personal information is limited to legitimate business reasons. Personal information will only be used for the purposes for which it was originally intended unless appropriate permission is obtained.
4. The consent of the person concerned will be obtained before there is an external disclosure of personal information. Exceptions to this are where disclosure is required or permitted by law.
5. All persons have the right to review their personal records, subject to any right to privacy of the source of any supplemental information, or where the Company is legally required not to disclose information.
6. A person can request that erroneous information be corrected or clarified. If the Company does not agree with the request the concerned person can file a written statement which will be retained in our records.

**NOTICE OF SALE UNDER MORTGAGE**

TO: Tiffany Easter Maleki and Lexine Vivi Maleki, the estate trustees of  
Nga Tu Truong  
187 Gladstone Avenue  
Toronto, Ontario M6J 3L3

AND TO: Spouse of Nga Tu Truong  
187 Gladstone Avenue  
Toronto, Ontario M6J 3L3

AND TO: Alireza Maleki  
445 Parkside Drive  
Toronto, Ontario M6R 2Z8

AND TO: Equitable Bank (formerly, The Equitable Trust Company)  
30 St. Clair Ave. West, Suite 700  
Toronto, Ontario M4V 3A1  
Attn: Rose Gallo

AND TO: Her Majesty the Queen in right of Canada as represented by the Minister of  
National Revenue  
Canada Revenue Agency  
1 Front Street West  
Toronto, ON M5J 2X6

*re Court File Number ITA-9493-19*

AND TO: Her Majesty the Queen in right of Canada as represented by the Minister of  
National Revenue  
Canada Revenue Agency  
166 Frederick St  
Kitchener, ON N2H 0A9  
Attn: Support Staff

*re Court File Number ITA-3031-22*

TAKE NOTICE that default has been made in payment of the moneys due under a certain mortgage signed April 5, 2013, made between

**NGA TU TRUONG AND ALIREZA MALEKI**

as Mortgagors,

- and -


**THE EQUITABLE TRUST COMPANY  
(Now, EQUITABLE BANK)**

as Mortgagee,

upon the following property namely:

PIN No. 21316-0236 (LT)  
PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO,  
City of Toronto  
Province of Ontario

This is Exhibit "L" referred to in  
the affidavit of **Rose Gallo**  
sworn before me, by video conference  
this 9<sup>th</sup> day of October, 2024



A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,  
Province of Ontario, for Fogler, Rubinoff LLP,  
Barristers and Solicitors.  
Expires March 21, 2027.**

Land Title Division for the Toronto Registry Office (NO. 80)

Municipal Address: 1201 St. Clair Avenue West, Toronto, Ontario M6E 1B5

which mortgage was registered on April 5, 2013, in the Land Title Division for the Toronto Registry Office (NO. 80) as No. AT3271307 and which mortgage was renewed by Loan Renewal Agreement dated October 14, 2022.

AND I hereby give you notice that the amount now due on the mortgage for principal money, interest, late payment interest, collection costs, three months' interest pursuant to Section 17 of the *Mortgages Act* and the terms of the mortgage, returned payment fees, annual account maintenance fee, tax account credit, insurance administration fee, mortgage verification fees, previous statement fee and costs respectively, are as follows:

For principal as at October 5, 2023	\$450,601.38
For interest to February 15, 2024	\$10,247.42
For late payment interest	\$212.94
For three month's interest pursuant to Section 17 of the <i>Mortgages Act</i> and the provisions of the mortgage	\$7,164.56
For returned payment fees of the mortgagee	\$200.00
For insurance administration fees of the mortgagee	\$600.00
For mortgage verification fees of the mortgagee	\$75.00
For tax account credit of the mortgagee	-\$82,312.54
For lender's default legal action administration fee of mortgagee	\$1,000.00
For legal fees for issuing demand letter	\$575.00
For legal fees for issuing Notice of Intention to Enforce Security	\$875.00
For legal fees only in connection with the service of this notice but not including disbursements and costs incurred to date (and thereafter such further legal fees incurred plus disbursements and costs incurred to date and after the date hereof will be charged)	\$1,650.00
For HST on costs	\$403.00
	\$391,291.76

together with interest at the rate of 6.36% per annum, on the principal and interest hereinbefore mentioned, from the 15th day of February, 2024, to the date of payment.

AND unless the said sums are paid on or before the 22nd day of March, 2024, I shall sell the property covered by the said mortgage under the provisions contained in it.

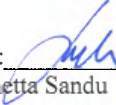
THIS notice is given to you as you appear to have an interest in the mortgaged property and may be entitled to redeem the same.

**TAKE NOTICE** that by Letters Patent to amend the incorporating instrument dated June 26, 2013 and effective as of July 1, 2013, and pursuant to Subsection 217(4) of the *Bank Act*, the name The Equitable Trust Company has been changed to **EQUITABLE BANK**. A copy of the Letters Patent to amend the incorporating instrument was registered in the Land Registry Office for the Land Titles Division of Toronto (No. 80) on the 5th day of May, 2014 as Instrument No. AT3573705.



DATED the 15th day of February, 2024.

**EQUITABLE BANK** formerly known as  
**THE EQUITABLE TRUST COMPANY**  
by its solicitors  
FOGLER, RUBINOFF LLP

Per:   
\_\_\_\_\_  
Ninetta Sandu

Fogler, Rubinoff LLP HST Registration #R119420859

Municipal Address is: 1201 St. Clair Avenue West, Toronto, Ontario M6E 1B5

Please direct any enquiries to:

Medina Stella Young, Law Clerk  
Fogler, Rubinoff LLP  
Barristers & Solicitors  
3000-77 King St W, PO Box 95  
TD Centre North Tower  
Toronto, Ontario M5K 1G8

Telephone: 416-864-9700 ext. 204  
Fax: (416) 941-8852  
Cell: 905-758-0530  
Email: myoung@foglers.com

OR to:  
Joseph Fried  
Fogler, Rubinoff LLP  
Email: jfried@foglers.com

Matter No. 240932

FORM 115

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

TO: Estate of Nga Tu Truong, an insolvent person  
 187 Gladstone Avenue  
 Toronto, Ontario M6J 3L3

TAKE NOTICE THAT:

1. Equitable Bank, a secured creditor, intends to enforce its security on the property of the insolvent person described below:  
 PIN No. 21316-0236 (LT)  
 PT LT 24-25 PL 1360 TORONTO AS IN CT590018; CITY OF TORONTO,  
 City of Toronto  
 Province of Ontario  
 Land Title Division for the Toronto Registry Office (NO. 80)  
  
 municipally known as 1201 St. Clair Avenue West, Toronto, Ontario M6E 1B5
2. The security that is to be enforced is in the form of:
  - (a) a Charge/Mortgage of Land signed April 5, 2013 and registered in the Land Title Division for the Toronto Registry Office (NO. 80) on April 5, 2013 as Instrument No. AT3271307;
  - (b) a General Assignment of Rents registered in the said Land Titles Office on April 5, 2013 as Instrument No. AT3271308.
3. The total amount of the indebtedness secured by the security is **\$391,291.76** as at the 15th day of February, 2024 inclusive of \$875.00 costs plus HST thereon for issuing this Notice, with a per diem payment thereafter of \$78.67 on the mortgage loan.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10 day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at the City of Toronto, this 15th day of February, 2024.

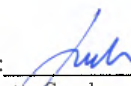
This is Exhibit "M" referred to in  
 the affidavit of **Rose Gallo**  
 sworn before me, by video conference  
 this 9th day of October, 2024



\_\_\_\_\_  
 A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
**Province of Ontario, for Fogler, Rubinfoff LLP,**  
**Barristers and Solicitors.**  
**Expires March 21, 2027.**

**EQUITABLE BANK formerly known as**  
**THE EQUITABLE TRUST COMPANY**  
 by its solicitors  
 FOGLER, RUBINFOFF LLP

Per:   
 \_\_\_\_\_  
 Ninetta Sandu  
 3000-77 King St W, PO Box 95  
 TD Centre North Tower  
 Toronto, Ontario M5K 1G8

T: (416) 864-9700  
 F: (416) 941-8852

Please direct any enquiries to: **Medina Stella Young at 416-864-9700 ext. 204**  
**(myoung@foglers.com)**

*This Notice is a required document under the Bankruptcy & Insolvency Act ("Act"). The use of the word "insolvent" is prescribed by the Act but nothing herein shall be deemed to imply that any person to whom this Notice is delivered is, in fact insolvent.*

**From:** [Kasthury Suthaharan](#)  
**Sent:** Wednesday, February 21, 2024 9:17:40 AM  
**To:** [rgallo@eqbank.cadefaults@eqbank.ca](mailto:rgallo@eqbank.cadefaults@eqbank.ca)  
**Cc:** [Young, Medina](#); [Fried, Joseph](#); [Lim, Gahee](#)  
**Subject:** ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, , Mtg 152782A, Mtgr ESTATE OF NGA TRUONG  
**Importance:** Normal  
**Sensitivity:** None  
**Archived:** Monday, September 23, 2024 2:38:52 PM

Hi Rose, please note our inspector attended here and posted the lock change notice. The mortgagor's ex-husband called our inspector from 416-820-4511. He has explained that he had a bailiff for the commercial part and that is already secured. He was going on about a tenant in the other side, which has not paid rent since 2021. He said he left the lock change notice on that we posted but he advised that tenant will not call us back nor cooperate? He is sending me his information through email so we have his name and number etc. but there is nothing we can do about this. He said he has a hearing on this in March. Our inspector later got a call from the tenant and he is crying and confirmed he lives there with his 3 dogs, he is the only one living there. He said he is in the middle of transitioning and he is scared. His living conditions are horrible. He mentioned rats outside door, roof leaking etc. He has court on March 27th. He said the landlord has the lease. He did not sound very stable over the phone. He is sending a copy of his ID. He has no hydro right now. His number is 647 676 2154. Please advise how you would like us to proceed.

Thank you, Kasthury

**From:** Kasthury Suthaharan  
**Sent:** Friday, February 16, 2024 1:20 PM  
**To:** Fried, Joseph <[jfried@foglers.com](mailto:jfried@foglers.com)>; Young, Medina <[myoung@foglers.com](mailto:myoung@foglers.com)>; [rgallo@eqbank.ca](mailto:rgallo@eqbank.ca); Commercial <[commercial@dslp.ca](mailto:commercial@dslp.ca)>  
**Cc:** Lim, Gahee <[glim@foglers.com](mailto:glim@foglers.com)>  
**Subject:** RE: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, , Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

Hi Medina/Joseph,

Acknowledged.

Thank you,

Kasthury Suthaharan  
Account Manager

MFS Property Services Inc.  
8920 Woodbine Avenue, Ste 403  
Markham, Ontario, L3R 9W9  
T: 905-940-6008 x0301

-----Original Message-----

**From:** Fried, Joseph <[jfried@foglers.com](mailto:jfried@foglers.com)>  
**Sent:** Friday, February 16, 2024 12:54 PM  
**To:** Young, Medina <[myoung@foglers.com](mailto:myoung@foglers.com)>; Kasthury Suthaharan <[kasthury@mfsproperty.com](mailto:kasthury@mfsproperty.com)>; [rgallo@eqbank.ca](mailto:rgallo@eqbank.ca); Commercial <[commercial@dslp.ca](mailto:commercial@dslp.ca)>

This is Exhibit "N" referred to in the affidavit of **Rose Gallo** sworn before me, by video conference this 9<sup>th</sup> day of October, 2024



\_\_\_\_\_  
A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for **Fogler, Rubinoff LLP,**  
Barristers and Solicitors.  
Expires March 21, 2027.

Cc: Lim, Gahee <glim@foglers.com>  
Subject: RE: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, , Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

For the vacant units change locks as well and winterize

Joseph Fried\*  
Direct: 416.941.8836  
Main: 416.864.9700  
Email: jfried@foglers.com

-----Original Message-----

From: Young, Medina <myoung@foglers.com>  
Sent: Friday, February 16, 2024 12:16 PM  
To: Kasthury Suthaharan <kasthury@mfsproperty.com>; rgallo@eqbank.ca; Commercial <commercial@dslp.ca>  
Cc: Fried, Joseph <jfried@foglers.com>; Lim, Gahee <glim@foglers.com>  
Subject: RE: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, , Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

Good morning,

Can u please have an inspector attend at the property and post a 48 hr lock change notice on the tenants unit upstairs. I spoke with the ex-husband/ estate trustee and he advised the guy upstairs "Quintanilla Jose" hasn't paid any rent since 2021 . The rest of the property is all vacant, no other tenants.

Medina Young  
Law Clerk  
Fogler, Rubinoff LLP  
Lawyers  
77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8  
Direct: 416.864.9700 x204  
Main: 416.864.9700  
Toll Free: 1.866.861.9700  
Fax: 416.941.8852  
Email: myoung@foglers.com  
foglers.com

From: Fried, Joseph <jfried@foglers.com>  
Sent: Tuesday, February 13, 2024 4:17 PM  
To: Kasthury Suthaharan <kasthury@mfsproperty.com>; rgallo@eqbank.ca; Commercial <commercial@dslp.ca>  
Cc: Young, Medina <myoung@foglers.com>; Lim, Gahee <glim@foglers.com>  
Subject: RE: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, , Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

Rose in that case we should proceed with NOS

Joseph Fried\*  
Direct: 416.941.8836  
Main: 416.864.9700  
Email: jfried@foglers.com

From: Kasthury Suthaharan  
 Sent: Tuesday, February 13, 2024 10:44 AM  
 To: rgallo@eqbank.ca; Commercial <commercial@dslp.ca>  
 Cc: myoung@foglers.com; jfried@foglers.com; glim@foglers.com  
 Subject: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, , Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

Hi Joe, please note the signage in the windows appear to be their menu, uber eats sign, and method of payments accepted. There is no hours of operation listed. Does not appear to be operational at this time. I googled the name of it and it says Temporarily Closed. We have not received any calls to date. Thank you, Kasthury

From: Fried, Joseph <jfried@foglers.com>  
 Sent: Monday, February 12, 2024 2:30 PM  
 To: Kasthury Suthaharan <kasthury@mfsproperty.com>; rgallo@eqbank.ca; Commercial <commercial@dslp.ca>  
 Cc: Young, Medina <myoung@foglers.com>; Lim, Gahee <glim@foglers.com>  
 Subject: RE: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, M6E1B5, Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

Did commercial unit seem closed for business? There appear to be notices in the window what does it say?  
 Are store hours posted anywhere?

Joseph Fried\*  
 Direct: 416.941.8836  
 Main: 416.864.9700  
 Email: jfried@foglers.com  
 From: Young, Medina <myoung@foglers.com>  
 Sent: Monday, February 12, 2024 1:13 PM  
 To: Kasthury Suthaharan <kasthury@mfsproperty.com>; rgallo@eqbank.ca; Commercial <commercial@dslp.ca>  
 Cc: Fried, Joseph <jfried@foglers.com>; Lim, Gahee <glim@foglers.com>  
 Subject: RE: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, M6E1B5, Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

Please let us know if anyone reaches out to you. Thanks.

Medina Young  
 Law Clerk  
 Fogler, Rubinoff LLP  
 Lawyers  
 77 King Street West  
 Suite 3000, P.O. Box 95  
 TD Centre North Tower  
 Toronto, ON M5K 1G8  
 Direct: 416.864.9700 x204  
 Main: 416.864.9700  
 Toll Free: 1.866.861.9700  
 Fax: 416.941.8852  
 Email: myoung@foglers.com  
 foglers.com

From: Kasthury Suthaharan  
 Sent: Monday, February 12, 2024 1:05 PM  
 To: rgallo@eqbank.ca; Commercial <commercial@dslp.ca>  
 Cc: myoung@foglers.com; jfried@foglers.com; glim@foglers.com

Subject: ST. CLAIR AVENUE WEST, 1201, TORONTO, ON, M6E1B5, Mtg 152782A, Mtgr ESTATE OF NGA TRUONG

Good day Medina, please see attached occupancy report and photos. Please advise if you require anything further.  
Thanks, Kasthury

From: Kasthury Suthaharan  
Sent: Thursday, February 8, 2024 1:47 PM  
To: Young, Medina <myoung@foglers.com>  
Cc: Rose Gallo <rgallo@eqbank.ca>; Commercial <commercial@dslp.ca>; Fried, Joseph <jfried@foglers.com>; Lim, Gahee <glim@foglers.com>  
Subject: RE: 1201 St. Clair Avenue West, Toronto, ON M6E 1B5 Estate of Nga Truong / 152782 CRM:0760639

Good day Medina,

We will send this request out for service.

Thank you,

Kasthury Suthaharan  
Account Manager

MFS Property Services Inc.  
8920 Woodbine Avenue, Ste 403  
Markham, Ontario, L3R 9W9  
T: 905-940-6008 x0301

From: Young, Medina <myoung@foglers.com>  
Sent: Thursday, February 8, 2024 12:29 PM  
To: Kasthury Suthaharan <kasthury@mfsproperty.com>  
Cc: Rose Gallo <rgallo@eqbank.ca>; Commercial <commercial@dslp.ca>; Fried, Joseph <jfried@foglers.com>; Lim, Gahee <glim@foglers.com>  
Subject: 1201 St. Clair Avenue West, Toronto, ON M6E 1B5 Estate of Nga Truong / 152782 CRM:0760639

Re: Equitable Bank mortgage loan to Nga Truong (Estate of) on 1201 St. Clair Avenue West, Toronto, ON

Please conduct an occupancy inspection at the above noted property. The property is owned by Nga Truong (deceased). We are advised by our client that this is a commercial/residential rental property (store front and upstairs units). Our client does have a rent roll (attached and may be outdated) and a copy of a lease (at time of lending – attached). Here is a letter to be served on the tenants. Please try and have inspector obtain phone number and email addresses of tenants. Please ensure to make sufficient copies. PLEASE ENSURE THAT THE NAME OF THE INSPECTOR IS CLEARLY PRINTED BELOW HIS SIGNATURE ON THE OCCUPANCY REPORT.

If applicable, please also obtain the name and number of the superintendent.

Medina Young  
Law Clerk  
Fogler, Rubinoff LLP  
Lawyers  
77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8  
Direct: 416.864.9700 x204

Main: 416.864.9700  
Toll Free: 1.866.861.9700  
Fax: 416.941.8852  
Email: [myoung@foglers.com](mailto:myoung@foglers.com)  
foglers.com

Kasthury Suthakaran  
Account Manager  
MFS Property Services Inc.  
905-940-6008 Ext. 0301



ING  
**LARM**  
0112 www.flexalarm.ca



NG  
-ARM



*thehashtag* | Restro & Bar  
Order online at thehashtag.ca



WE CLINIC  
Innovative D.O.  
491-8853



*thehashtag* | Restro & Bar  
Order online at [thehashtag.ca](http://thehashtag.ca)

1201



P  
A  
S  
L  
M

1201A

Handwritten graffiti on the left side of the address sign.

Handwritten graffiti on the right side of the address sign.

White notice posted on the door.



Yellow sticker on the glass door.

Blue sticker with a logo on the glass door.

White notice posted on the glass door.



This is Exhibit "O" referred to in  
the affidavit of **Rose Gallo**  
sworn before me, by video conference  
this 9<sup>th</sup> day of October, 2024

*Karen Fox*

A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for Fogler, Rubinoff LLP,  
Barristers and Solicitors.  
Expires March 21, 2027.



This is Exhibit "P" referred to in the affidavit of **Rose Gallo** sworn before me, by video conference this 9<sup>th</sup> day of October, 2024

  
A COMMISSIONER FOR TAKING AFFIDAVITS

**Karen Anne Fox, a Commissioner, etc.,**  
Province of Ontario, for **Fogler, Rubinfoff LLP,**  
Barristers and Solicitors.  
Expires March 21, 2027.

Court File No. CV-24-00728653-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**EQUITABLE BANK**

Applicant

and

**ALIREZA MALEKI IN HIS CAPACITY AS ESTATE TRUSTEE OF THE  
ESTATE OF NGA TU TRUONG**

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C.C.43

**CONSENT**

**BDO Canada Limited** hereby agrees to act as Receiver in the above-noted matter.

DATED at OAKVILLE this 8<sup>th</sup> day of October, 2024

**BDO CANADA LIMITED**

Per: 

---

Name: Peter Naumis, B. Comm., CIRP, LIT  
Title: Vice President, Business Restructuring  
& Turnaround Services



BETWEEN:

EQUITABLE BANK

Applicant

-and-

ALIREZA MALEKI IN HIS CAPACITY AS ESTATE TRUSTEE  
OF THE ESTATE OF NGA TU TRUONG  
Respondent

Court File No. CV-24-00728653-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**CONSENT**

**FOGLER, RUBINOFF LLP**

Lawyers  
77 King Street West  
Suite 3000, P. O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8

**Catherine Francis (LSO# 26900N)**

cfrancis@foglers.com  
Tel: 416.941.8861

Lawyers for the Applicant

EQUITABLE BANK  
Applicant

-and- ALIREZA MALEKI et al.  
Respondent

Court File No. CV-24-00728653- 00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**APPLICATION RECORD**

**FOGLER, RUBINOFF LLP**

Lawyers  
77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8

**Catherine Francis (LSO# 26900N)**

cfrancis@foglers.com  
Tel: 416-941-8861

Lawyers for the Applicant