

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

STARBANK DEVELOPMENTS 2000 CORP.

APPLICANT

- and -

**EVOKE DEVELOPMENTS OTTAWA GP CORP.
AND EVOKE DEVELOPMENTS OTTAWA, LP**

RESPONDENTS

**FIRST REPORT TO COURT
OF ALVAREZ & MARSAL CANADA INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER
OF EVOKE DEVELOPMENTS OTTAWA GP CORP.
AND EVOKE DEVELOPMENTS OTTAWA, LP**

JULY 2, 2024

TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	PURPOSE OF THIS REPORT	1
3.0	TERMS OF REFERENCE AND DISCLAIMER	2
4.0	BACKGROUND.....	3
5.0	CREDITOR SUMMARY	6
6.0	SALE OF THE PROPERTY.....	7
7.0	ACTIVITIES OF THE RECEIVER TO DATE.....	12
8.0	CONCLUSIONS AND RECOMMENDATIONS	13

INDEX TO APPENDICES

Appendix A	Appointment Order dated May 21, 2024
Appendix B	C&W Listing Agreement

1.0 INTRODUCTION

- 1.1 This report (the “**First Report**”) is filed by Alvarez & Marsal Canada Inc. (“**A&M**”) in its capacity as Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Evoke Developments Ottawa GP Corp. (“**Evoke GP**”) and Evoke Developments Ottawa, LP (“**Evoke LP**” and together with Evoke GP, collectively, “**Evoke**”), including the land and premises located at 1546 Scott Street, Ottawa, Ontario (the “**Property**”).
- 1.2 Pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (the “**Court**”) made on May 21, 2024 (the “**Receivership Date**”) upon application by Starbank Developments 2000 Corp. (“**Starbank**” or the “**Applicant**”), A&M was appointed Receiver of Evoke. A copy of the Appointment Order is attached hereto as **Appendix “A”**.

2.0 PURPOSE OF THIS REPORT

- 2.1 The purpose of this First Report is to:
- (a) provide background information regarding Evoke and the Property;
 - (b) describe the Receiver’s activities since the Receivership Date and the Receiver’s intended course of action in respect of this receivership proceeding (the “**Receivership Proceeding**”);
 - (c) provide support for the Receiver’s motion (the “**Receiver’s Motion**”) for an order (the “**Sale Process Order**”), among other things:

- (i) authorizing and directing the Receiver to conduct the Sale Process (as defined below) for the Property, including the engagement of Cushman & Wakefield ULC (“**C&W**”); and
- (ii) approving this First Report and the activities of the Receiver described herein.

3.0 TERMS OF REFERENCE AND DISCLAIMER

- 3.1 In preparing this First Report, the Receiver has relied upon unaudited financial information, books and records and other documents provided by, and discussions with current management of RHH Rental Properties Ltd. (operating as Reid’s Heritage Properties) (“**RHH**”) (collectively, the “**Information**”).
- 3.2 The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.
- 3.3 This First Report has been prepared for the use of this Court and Evoke’s stakeholders as general information relating to the Receivership Proceeding and to assist the Court in making a determination of whether to approve the relief sought herein. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose. The

Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this First Report different than the provisions of this paragraph. The information contained in this First Report is not intended to be relied upon by any investor or purchaser in any transaction with the Receiver.

3.4 Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

3.5 Further background with respect to Evoke, as well as a description of the circumstances leading to the appointment of the Receiver, are contained in Starbank’s application record dated April 25, 2024 (the “**Application Record**”), including the affidavit of Dung Lam sworn April 3, 2024 (the “**Lam Affidavit**”). Copies of the Application Record, including the Lam Affidavit and other Court-filed documents and notices in the Receivership Proceeding, are available on the Receiver’s website at: www.alvarezandmarsal.com/evoke (the “**Case Website**”).

4.0 BACKGROUND

4.1 Evoke GP was incorporated on February 2, 2022 and is a wholly owned subsidiary of RHH, a full-service rental property builder with a portfolio of homes and condominiums across Ontario. Evoke GP is also the general partner of Evoke LP, an Ontario limited liability partnership and the beneficial owner of the Property.

- 4.2 Evoke are single purpose entities whose only assets are the Property and related benefits from same (as described further below). The Receiver's understanding is that they have no and have never had any employees.
- 4.3 The Property is a 27,170 square foot parcel, with a single storey building and 46 paved surface parking spaces. The building is currently leased to Brewers Retail Inc. (operating as The Beer Store) ("**The Beer Store**") pursuant to a lease agreement dated December 10, 2019 between Evoke GP¹ and The Beer Store (the "**Beer Store Lease**").
- 4.4 On April 28, 2022, Evoke acquired the Property from Starbank. In connection with this transaction, pursuant to a loan agreement dated April 28, 2022 between Starbank as lender, Evoke as borrower and RHH as guarantor (the "**Loan Agreement**"), Starbank provided a vendor-take-back mortgage to Evoke for the amount of \$8.4 million.
- 4.5 Prior to the Receivership Date, all day-to-day management of Evoke was performed by RHH. Based on the books and records of Evoke, to-date, their only transactions have included the acquisition of the Property, and various intercompany transactions with RHH (including accounting for proceeds from the Beer Store Lease), as detailed in Section 5.3 below. All development activities and related costs in respect of the Property have been coordinated by RHH.

¹ The Beer Store Lease was originally entered into between Starbank and The Beer Store and assigned by Starbank to Evoke GP pursuant to an Assignment and Assumption of Lease Agreement dated April 2022.

- 4.6 As further described in the Lam Affidavit, on October 24, 2023 Evoke and Starbank entered in to a forbearance agreement (the “**Forbearance Agreement**”), which, among other things, provided that (i) Evoke must make a principal payment to Starbank totaling \$1.68 million before January 28, 2024; and (ii) Evoke and RHH consent to an Order of the Court appointing A&M as receiver and manager of the debtors and Property upon an event of default. Evoke failed to make the full principal payment required by the Forbearance Agreement.
- 4.7 On November 29, 2021² (the “**Application Date**”), RHH submitted an initial application for a Zoning By-law Amendment and a Site Plan Control Application (the “**Site Plan Application**”) to the City of Ottawa (the “**City**”) for a proposed development which currently envisions a 25-storey mixed-use apartment building containing a total of 228 residential units and 148 parking spaces.
- 4.8 On June 14, 2023, the application for a Zoning By-law Amendment was approved by the City.
- 4.9 Based on discussions with management of RHH, the Receiver understands that, prior to the Receivership Date, three submissions of the Site Plan Application have been made to the City and the majority of necessary technical and feasibility reports in connection with the Site Plan Application have been completed. The Receiver further understands that

² The Receiver understands from management of RHH that Starbank authorized RHH to begin the Site Plan Application process with the City prior to April 28, 2022, the date Evoke acquired the Property from Starbank.

certain architectural and structural reports have been completed but have not yet been tendered for construction.

- 4.10 As of the date of this First Report, the Receiver understands that a fourth revised Site Plan Application has not been submitted. Management of RHH indicated that a key pending item is obtaining comments from the Ministry of the Environment, Conservation and Parks in respect to an environmental risk assessment filed by Corrin Environmental Consulting³ in November 2023, which is a prerequisite to obtaining a Record of Site Condition. Once obtained, Evoke will be in a position to submit a revised Site Plan Application.

5.0 CREDITOR SUMMARY

Secured Creditors

- 5.1 Based on a parcel register search as of May 28, 2024, the sole creditor appearing to hold a registered security interest in the Property is Starbank. As of March 27, 2024, the amount claimed by Starbank owing under the Loan Agreement was \$8,493,799.

Other Creditors

- 5.2 As of May 31, 2024, Evoke's books and records reflect approximately \$3.14 million owing to RHH.

³ Corrin Environmental Consulting operates as an extension of COLESTAR Environmental Inc., Evoke's environmental engineer.

- 5.3 The Receiver understands that Evoke does not have its own bank accounts and the balance owing to RHH relates primarily to (i) costs related to the Property's development activities paid for by RHH on behalf of Evoke; (ii) a payment of \$500,000 on February 6, 2024 made by RHH on behalf of Evoke to Starbank under the Loan Agreement; (iii) interest on amounts owing; offset by (iv) rent collected by RHH on behalf of Evoke in respect to the Beer Store Lease.
- 5.4 The Receiver understands from management of RHH that there are property tax arrears owing to the City. The Receiver has contacted the City and is currently in the process of confirming this amount.

6.0 SALE OF THE PROPERTY

- 6.1 Paragraph 3 of the Appointment Order authorizes, among other things, the Receiver to:
- (a) market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate; and
 - (b) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties.
- 6.2 To assist in assembling the information required to develop a process to market and sell the Property, the Receiver (i) commissioned Juteau Johnson Comba Inc. to complete an independent appraisal of the Property; and (ii) requested and received listing proposals

from four leading commercial real estate brokerages, including C&W, CBRE Limited, Colliers Macaulay Nicolls Inc. and Jones Lang LaSalle.

6.3 After review of the listing proposals, in consultation with the Applicant, on June 24, 2024 the Receiver engaged C&W to assist in the development and implementation of a sale process in respect of the Property (subject to Court approval) for the following reasons:

- (a) C&W is a leading commercial real estate brokerage firm, with recent relevant sales experience of development sites, including in the Ottawa region;
- (b) the C&W team managing the mandate has extensive experience buying, selling, underwriting and managing projects involving undeveloped land, both within and outside of formal restructuring proceedings;
- (c) the commission rate proposed by C&W (as detailed below) is comparable to fee arrangements in formal restructuring proceedings of a similar scale and the Receiver is of view that the commission rate is reasonable as it is in line with market standards for engagements of a similar nature; and
- (d) the Applicant supports the engagement of C&W.

6.4 A copy of the executed listing agreement between the Receiver and C&W (the “**Listing Agreement**”) is attached hereto as **Appendix “B”**.

6.5 The Listing Agreement provides that upon the successful completion of sale of the Property, a commission equivalent to 3% will be payable to C&W (the “**Base Commission**”). In the event a cooperating brokerage represents the purchaser (a

“Cooperating Brokerage”), a Cooperating Brokerage fee of 1% shall be paid in addition to the Base Commission. In the event that the Property is sold to certain specifically identified parties or their related entities, the Base Commission is set at 1.5% of the selling price of the Property.

- 6.6 The Receiver is seeking the approval of the Court in respect of its proposed sale process as summarized below (the **“Sale Process”**)⁴:

Phase 1 – Preparation Phase (approximately four weeks, commenced prior to the hearing of the Receiver’s Motion)

The Receiver and C&W will:

- prepare a Confidentiality Agreement (**“CA”**) for distribution to prospective purchasers;
- prepare a teaser letter, advertisements and a confidential information memorandum (**“CIM”**) in respect of the acquisition opportunity;
- correspond with the City and property consultants to understand current development status/update reports as necessary;
- establish a comprehensive electronic data room (the **“Data Room”**) to aggregate access to confidential information pertaining to the Property; and

⁴ The dates contemplated herein assume that the Court will have granted the Sale Process Order on the original return date of the hearing of the Receiver’s Motion.

- prepare a template form of agreement of purchase and sale (“APS”).

Phase 2 – Marketing and Bid Phase (approximately two months)

- formal marketing of the Property is intended to commence on or before July 29, 2024;
- C&W will target prospective purchasers through a combination of direct contact email solicitations, advertisements, MLS Listing, and physical signage;
- interested parties who have executed the CA will be provided the CIM and access to the Data Room and the Receiver and C&W will coordinate due diligence;
- a template form of APS will be provided to prospective purchasers to facilitate a proper comparison of offers that may be received and to minimize the time required to negotiate separate forms of offers with multiple parties, in order to determine the highest and best overall offer;
- bids in the form of a marked-up APS will be required to be submitted to C&W and the Receiver no later than 5:00 p.m. (Eastern Time) on September 19, 2024, or such other date or time as may be agreed by the Receiver and C&W (the “**Bid Deadline**”);
- the Receiver and C&W will evaluate any and all bids on various criteria, including, but not limited to, purchase price, conditionality and certainty of closing; and
- following the Bid Deadline, upon selection of a successful bidder, the Receiver will bring a motion to the Court to obtain approval of the successful bid, including approval of the APS and vesting order in respect of same.

- 6.7 The Receiver, in consultation with C&W, will have the right to modify and/or adopt such other rules for the Sale Process or extend dates as it considers appropriate.
- 6.8 The Appointment Order provides that all Persons shall advise the Receiver of the existence of any books, documents, contracts, orders, corporate and accounting records, and any other information related to the business or affairs of Evoke, and permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to such documents. As of the date of this Report, management of RHH has provided the Receiver with information in respect of the Property's history and proposed development, including but not limited to property surveys, zoning and planning reports, environmental reports, architectural drawings, Site Plan Application information and other information (the "**Property Information**").
- 6.9 The Receiver notes that certain of the Property Information was commissioned by or prepared for RHH, though the information relates specifically to the Property. It is the intent of the Receiver to include the Property Information in the Data Room for prospective purchasers without representations or warranties in respect of its accuracy or completeness (subject to the prospective purchaser executing a CA).
- 6.10 The Receiver recommends that the Court approve the Sale Process as it is of the view that it is a fair, open and transparent process intended to canvass the market broadly in order to obtain the highest and best offer for the Property.

7.0 ACTIVITIES OF THE RECEIVER TO DATE

7.1 In addition to the activities previously described, following the issuance of the Appointment Order, the Receiver:

- (a) attended at the Property with a representative of The Beer Store;
- (b) arranged for the registration of a copy of the Appointment Order against title to the Property;
- (c) established the Case Website for the Receivership Proceeding and updated it accordingly;
- (d) engaged Chaitons LLP as independent counsel;
- (e) issued a notice to creditors pursuant to Sections 245 and 246 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 to known creditors of Evoke;
- (f) opened a trust bank account;
- (g) obtained information regarding Evoke, including books and records from RHH;
- (h) arranged for The Beer Store to direct rent payments to the Receiver's trust bank account;
- (i) held discussions with management of RHH in respect of the Property and the proposed development;
- (j) held discussions with COLESTAR Environmental Inc., Evoke's environmental engineer, in respect of the status of its environmental risk assessment;

- (k) obtained insurance coverage for the Property;
- (l) confirmed The Beer Store's insurance coverage in accordance with the Beer Store Lease;
- (m) held discussions with C&W in respect of the proposed Sale Process;
- (n) held discussions with Starbank to provide updates on the status of this Receivership Proceeding; and
- (o) prepared this First Report and brought this motion.

8.0 CONCLUSIONS AND RECOMMENDATIONS

- 8.1 Based on the foregoing, the Receiver respectfully requests that Court make an order granting the relief sought in the Receiver's Notice of Motion and described in paragraph 2.1(c) of this First Report.

All of which is respectfully submitted this 2nd day of July, 2024.

**Alvarez & Marsal Canada Inc., in its capacity as Receiver of
Evoke Developments Ottawa GP Corp.
and Evoke Developments Ottawa, LP,
and not in its personal capacity**



Per: Stephen Ferguson
Senior Vice-President

Appendix A



Court File No. CV-24-00095400-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF 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, AS AMENDED

THE HONOURABLE

)

TUESDAY, THE 21st

JUSTICE ROGER

)

DAY OF MAY, 2024

)

B E T W E E N:

STARBANK DEVELOPMENTS 2000 CORP.

Applicant

- and -

**EVOKE DEVELOPMENTS OTTAWA GP CORP.
And EVOKE DEVELOPMENTS OTTAWA, LP**

Respondents

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order appointing Alvarez & Marsal Canada Inc. as receiver and manager (in such capacities, the “Receiver”), without security, of all of the assets, undertakings and properties of the Respondents Evoke Developments Ottawa GP Corp. (“GP”) and Evoke Developments Ottawa, LP (and

together with GP, collectively, the “Debtors”), was heard this day by Zoom judicial videoconference.

ON READING the affidavit of Dung Lam sworn April 3, 2024 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, no one else appearing although duly served as appears from the affidavit of service of Janet Nairne sworn April 26, 2024, and on reading the consent of Alvarez & Marsal Canada Inc. to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, Alvarez & Marsal Canada Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors, including, without limitation, the lands and premises legally described in Schedule “A” hereto, and all proceeds thereof (the “Property”).

RECEIVER’S POWERS

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

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

- b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- g) to settle, extend or compromise any indebtedness owing to the Debtors;
- h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter

instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in each such case, notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the Receiver's administration, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of any of the Debtors;

- p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.
- s) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall

provide to the Receiver or permit the Receiver to access make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure. For greater certainty, and without limiting the generality of the foregoing, the Receiver is authorized and empowered to access and make, retain and take away copies of the Records of the Debtors in respect of the Property located at the offices of the Debtors and the Debtors shall cooperate and shall provide reasonable assistance to the Receiver with respect to such Records and information contained in such Records.

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to

observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

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

LIMITATION ON THE RECEIVER’S LIABILITY

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

RECEIVER’S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

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

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

GENERAL

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

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

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

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

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

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

33. THIS COURT ORDERS that this Order is effective from today's date and is not required to be entered.

A handwritten signature in black ink, appearing to be 'P. B.', is written above a horizontal line.

Issuance date May 29 2024

SCHEDULE "A"
LANDS AND PREMISES

PIN: 04034-0023 (LT)

PCL 3-3, SEC 58; PT LTS 3 & 4, PL 58, N/S BULLMAN ST; PT LTS 3 & 4, PL 58, S/S SCOTT ST; PT LTS 1290 & 1292, PL 157, PT LT 1303, PL 157, PART 6, 8 & 10, 4R6192, S/T T/W LT625664; OTTAWA

Municipal Address: 1546 Scott Street, Ottawa

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$_____

1. THIS IS TO CERTIFY that Alvarez & Marsal Canada Inc., the Receiver (the "Receiver") of all of the assets, undertakings and properties of Evoke Developments Ottawa GP Corp. ("GP") and Evoke Developments Ottawa, LP (the "Debtors"), including the lands and premises municipally known as 1546 Scott Street, Ottawa (the "Property") appointed by Order of the Ontario Superior Court of Justice (the "Court") dated ●, ● (the "Order") made in an application having Court file number ●, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$●, being part of the total principal sum of \$● which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the ● day of each month after the date hereof at a notional rate per annum equal to the rate of ● per cent.

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

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

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

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

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

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

DATED the • day of •, •.

Alvarez & Marsal Canada Inc., solely in its
capacity as Receiver of the Property, and
not in its personal capacity

Per: _____

Name:

Title:

STARBANK DEVELOPMENTS 2000 CORP.
Applicant

-and- EVOKE DEVELOPMENTS OTTAWA GP CORP. et al.
Respondents

Court File No. CV-24-00095400-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
OTTAWA

**ORDER
(Appointing Receiver)**

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, Box 447
Commerce Court Postal Station
Toronto, ON M5L 1G4

David P. Preger (36870L)

Email: DPreger@dickinsonwright.com
Tel: (416) 646-4606

Vanessa Ford (84726R)

Email: vford@dickinsonwright.com
Tel: (416) 644-2860

Lawyers for the Applicant

Appendix B

Listing Agreement - Commercial

Seller Representation Agreement

Authority to Offer for Sale

This is a Multiple Listing Service® Agreement



OR

Exclusive Listing Agreement



BETWEEN:

BROKERAGE:

Cushman & Wakefield ULC

(the "Listing Brokerage") Tel. No. 416-862-0611

SELLER: ALVAREZ AND MARSAL CANADA INC. SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF EVOKE DEVELOPMENTS

OTTAWA GP CORP. AND EVOKE DEVELOPMENTS OTTAWA LP AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY (the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as 1546 Scott Street

Ottawa, Ontario, K1Y 4S8

(the "Property")

the Seller hereby gives the Listing Brokerage the exclusive and irrevocable right to act as the Seller's agent,

commencing at 12:01 am on the 24th ~~15th~~ day of June ~~July~~, 2024
(a.m./p.m.)

and expiring at 11:59 p.m. on the 24th ~~31st~~ day of December ~~January~~, 2025 (the "Listing Period"),

{ Seller acknowledges that the length of the Listing Period is negotiable between the Seller and the Listing Brokerage and, if an MLS® listing, may be subject to minimum requirements of the real estate board, however, in accordance with the Trust in Real Estate Services Act, 2002 (TRESA), the Listing Brokerage must obtain the Seller's initials. }

(Seller's Initials)

to offer the Property for sale at a price of:

Dollars (CDN\$) 1.00

One

Dollars

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

The Seller hereby represents and warrants that the Seller is not a party to any other listing agreement for the Property or agreement to pay commission to any other real estate brokerage for the sale of the Property.

(Seller's Initials)

Schedule A, attached hereto forms part of this Agreement, of which Schedule A sets out the details with respect to the services, confidentiality and representation of the Brokerage.

1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement ("Authority" or "Agreement"):

"Seller" includes vendor and a "buyer" includes a purchaser or a prospective purchaser. "Self-represented assistance" shall mean assistance provided to a self-represented party. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised, or the causing of a First Right of Refusal to be exercised, or an agreement to sell or transfer shares or assets. "Real property" includes real estate as defined in the Trust in Real Estate Services Act (2002). The "Property" shall be deemed to include any part thereof or interest therein. A "real estate board" includes a real estate association. Commission shall be deemed to include other remuneration. This Agreement shall be read with all changes of gender or number required by the context. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property.

2. COMMISSION: In consideration of the Listing Brokerage listing the Property, the Seller agrees to pay the Listing Brokerage a commission of ~~3.0~~ % of the sale price of the Property or ~~4.0% if a non-listing team salesperson/broker represents the Buyer~~

See Schedule A

for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period, as may be acceptable to the Seller. The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage) and to offer to pay the co-operating brokerage a commission of 1.0 % of the sale price of the Property or

out of the commission the Seller pays the Listing Brokerage.

The Seller further agrees to pay such commission as calculated above if an agreement to purchase is agreed to or accepted by the Seller or anyone

on the Seller's behalf within ~~180~~ 120 days after the expiration of the Listing Period (Holdover Period), so long as such agreement is with anyone who was introduced to the Property from any source whatsoever during the Listing Period or shown the Property during the Listing Period. If, however, the offer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement.

The Seller further agrees to pay such commission as calculated above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect, said commission to be payable on the date set for completion of the purchase of the Property.

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):



Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Listing Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and taxes owing on such commission.

~~In the event the buyer fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Seller, the Seller then authorizes the Listing Brokerage to retain as commission for services rendered, fifty (50%) per cent of the amount of the said deposit forfeited, awarded, directed or released to the Seller (but not to exceed the commission payable had a sale been consummated) and to pay the balance of the deposit to the Seller. All amounts set out as commission are to be paid plus applicable taxes on such commission.~~

- 3. REPRESENTATION:** The Seller acknowledges that the Listing Brokerage has provided the Seller with written information explaining relationships, including information on Seller Representation, Sub-agency, Buyer Representation, Multiple Representation and Self-Represented Party assistance. The Seller understands that unless the Seller is otherwise informed, the co-operating brokerage is representing the interests of the buyer in the transaction. The Seller further acknowledges that the Listing Brokerage may be listing other properties that may be similar to the Seller's Property and the Seller hereby consents to the Listing Brokerage listing other properties that may be similar to the Seller's Property without any claim by the Seller of conflict of interest. ~~The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices pursuant to any offer or agreement to purchase the Property. Unless otherwise agreed in writing between Seller and Listing Brokerage, any commission payable to any other brokerage shall be paid out of the commission the Seller pays the Listing Brokerage, said commission to be disbursed in accordance with the Commission Trust Agreement.~~

MULTIPLE REPRESENTATION: The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will require the Seller's written consent to represent both the Seller and the buyer for the transaction. The Seller understands and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer.

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
- that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
- the motivation of or personal information about the Seller or buyer, unless otherwise instructed in writing by the party to which the information applies or unless failure to disclose would constitute fraudulent, unlawful or unethical practice;
- the price the buyer should offer or the price the Seller should accept; and
- the Listing Brokerage shall not disclose to the buyer the terms of any other offer, unless otherwise directed in writing by the Seller.

However, it is understood that factual market information about comparable properties and information known to the Listing Brokerage concerning potential uses for the property will be disclosed to both Seller and Buyer to assist them to come to their own conclusions.

~~The Brokerage shall not be appointed or authorized to be agent for either the Seller or the buyer for the purpose of giving and receiving notices where the Brokerage represents both the Seller and the buyer (multiple representation) or where the buyer or the seller is a self-represented party.~~

MULTIPLE REPRESENTATION AND DESIGNATED REPRESENTATION: The Seller understands and acknowledges where both the Seller and buyer are represented by a designated representative of the Listing Brokerage, multiple representation will not result, unless that designated representative represents more than one client in the same trade, and will require consent in writing for such multiple representation. In the event of multiple representation and designated representation, the Brokerage duty of disclosure to both the seller and the buyer client is as more particularly set out in the agreement with the respective seller or buyer.

- 4. FINDERS FEES:** The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the Commission as described above.
- 5. REFERRAL OF ENQUIRIES:** The Seller agrees that during the Listing Period, the Seller shall advise the Listing Brokerage immediately of all enquiries from any source whatsoever, and all offers to purchase submitted to the Seller shall be immediately submitted to the Listing Brokerage by the Seller before the Seller accepts or rejects the same. If any enquiry during the Listing Period results in the Seller accepting a valid offer to purchase during the Listing Period or within the Holdover Period after the expiration of the Listing Period described above, the Seller agrees to pay the Listing Brokerage the amount of Commission set out above, payable within five (5) days following the Listing Brokerage's written demand therefor.
- 6. MARKETING:** The Seller agrees to allow the Listing Brokerage to show and permit prospective buyers to fully inspect the Property during reasonable hours and the Seller gives the Listing Brokerage the sole and exclusive right to place "For Sale" and "Sold" sign(s) upon the Property. The Seller consents to the Listing Brokerage including information in advertising that may identify the Property. The Seller further agrees that the Listing Brokerage shall have sole and exclusive authority to make all advertising decisions relating to the marketing of the Property for sale during the Listing Period. The Seller agrees that the Listing Brokerage will not be held liable in any manner whatsoever for any acts or omissions with respect to advertising by the Listing Brokerage or any other party, other than by the Listing Brokerage's gross negligence or wilful act.
- 7. WARRANTY:** The Seller represents and warrants that the Seller has the exclusive authority and power to execute this Authority to offer the Property for sale and that the Seller has informed the Listing Brokerage of any third party interests or claims on the Property such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Property, which may affect the sale of the Property.
- 8. INDEMNIFICATION AND INSURANCE:** The Seller will not hold the Listing Brokerage and representatives of the Brokerage responsible for any loss or damage to the Property or contents occurring during the term of this Agreement caused by the Listing Brokerage or anyone else by any means, including theft, fire or vandalism, other than by the Listing Brokerage's gross negligence or wilful act. ~~The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury, including but not limited to loss of the Commission payable under this Agreement, caused or contributed to by the breach of any warranty or representation made by the Seller in this Agreement and, if attached, the accompanying data form. The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers (Listing Brokerage) and any co-operating brokerage and all of its employees, representatives, salespersons and brokers (co-operating brokerage) for and against any claims against the Listing Brokerage or co-operating brokerage made by anyone who attends or visits the Property.~~
- 9. ENVIRONMENTAL INDEMNIFICATION:** ~~The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury as a result of the Property being affected by any contaminants or environmental problems.~~
- 10. FAMILY LAW ACT:** The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the spouse of the Seller has executed the consent hereinafter provided.

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):





The trademarks REALTOR®, REALTORS®, MLS®, Multiple Listing Services® and associated logos are owned or controlled by The Canadian Real Estate Association (CREA) and identify the real estate professionals who are members of CREA and the quality of services they provide. Used under license.

© 2024, Ontario Real Estate Association ("OREA"). All rights reserved. This form was developed by OREA for the use and reproduction by its members and licensees only. Any other use or reproduction is prohibited except with prior written consent of OREA. Do not alter when printing or reproducing the standard pre-set portion. OREA bears no liability for your use of this form.

11. VERIFICATION OF INFORMATION: The Seller authorizes the Listing Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required. The Seller hereby appoints the Listing Brokerage or the Listing Brokerage's authorized representative as the Seller's attorney to execute such documentation as may be necessary to effect obtaining any information as aforesaid. The Seller hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to the Listing Brokerage.

12. USE AND DISTRIBUTION OF INFORMATION: The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of listing and marketing the Property including, but not limited to: listing and advertising the Property using any medium including the Internet; disclosing Property information to prospective buyers, brokerages, salespersons and others who may assist in the sale of the Property; such other use of the Seller's personal information as is consistent with listing and marketing of the Property. The Seller consents, if this is an MLS® Listing, to placement of the listing information and sales information by the Brokerage into the database(s) of the MLS® System of the appropriate Board, and to the posting of any documents and other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) provided by or on behalf of the Seller into the database(s) of the MLS® System of the appropriate Board. The Seller hereby indemnifies and saves harmless the Brokerage and/or any of its employees, servants, brokers or sales representatives from any and all claims, liabilities, suits, actions, losses, costs and legal fees caused by, or arising out of, or resulting from the posting of any documents or other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) as aforesaid. The Seller acknowledges that the database, within the board's MLS® System is the property of the real estate board(s) and can be licensed, resold, or otherwise dealt with by the board(s). The Seller further acknowledges that the real estate board(s) may, during the term of the listing and thereafter, distribute the information in the database, within the board's MLS® System to any persons authorized to use such service which may include other brokerages, government departments, appraisers, municipal organizations and others; market the Property, at its option, in any medium, including electronic media; during the term of the listing and thereafter, compile, retain and publish any statistics including historical data within the board's MLS® System and retain, reproduce and display photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions which may be used by board members to conduct comparative analyses; and make such other use of the information as the Brokerage and/or real estate board(s) deem appropriate, in connection with the listing, marketing and selling of real estate during the term of the listing and thereafter. The Seller acknowledges that the information, personal or otherwise ("information"), provided to the real estate board or association may be stored on databases located outside of Canada, in which case the information would be subject to the laws of the jurisdiction in which the information is located.

In the event that this Agreement expires or is cancelled or otherwise terminated and the Property is not sold, the Seller, by initialling:

consent to allow other real estate board members to contact the Seller after expiration or other termination of this Agreement to discuss listing or otherwise marketing the Property.

☒ Does

☐ Does Not

13. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.

14. CONFLICT OR DISCREPANCY: If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Authority from the Seller to the Listing Brokerage. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein.

15. ELECTRONIC COMMUNICATION: This Agreement and any agreements, notices or other communications contemplated thereby may be transmitted by means of electronic systems, in which case signatures shall be deemed to be original. The transmission of this Agreement by the Seller by electronic means shall be deemed to confirm the Seller has retained a true copy of the Agreement.

16. ELECTRONIC SIGNATURES: If this Agreement has been signed with an electronic signature the parties hereto consent and agree to the use of such electronic signature with respect to this Agreement pursuant to the *Electronic Commerce Act, 2000*, S.O. 2000, c17 as amended from time to time.

THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND REPRESENT THE SELLER IN AN ENDEAVOUR TO OBTAIN A VALID OFFER TO PURCHASE THE PROPERTY ON THE TERMS SET OUT IN THIS AGREEMENT OR ON SUCH OTHER TERMS SATISFACTORY TO THE SELLER.

Brad Dykeman (Jun 26, 2024 16:13 EDT) (Date) (Name of Person Signing)

THIS AGREEMENT HAS BEEN READ AND FULLY UNDERSTOOD BY ME, I ACCEPT THE TERMS OF THIS AGREEMENT AND I ACKNOWLEDGE ON THIS DATE I HAVE SIGNED UNDER SEAL. Any representations contained herein or as shown on any accompanying data form respecting the Property are true to the best of my knowledge, information and belief.

SIGNED, SEALED AND DELIVERED I have hereunto set my hand and seal:
ALVAREZ AND MARSAI CANADA INC. SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF EVOKE DEVELOPMENTS
OTTAWA GP CORP. AND EVOKE DEVELOPMENTS OTTAWA, LP AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY

(Name of Seller) June 27 2024 (Seal) (Date) (Tel. No.)

(Signature of Seller/Authorized Signing Officer) (Seal) (Date) (Tel. No.)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the listing of the Property herein pursuant to the provisions of the Family Law Act, R.S.O. 1990 and hereby agrees to execute all necessary or incidental documents to further any transaction provided for herein.

(Spouse) (Seal) (Date) (Tel. No.)

DECLARATION OF INSURANCE

The Salesperson/Broker/Broker of Record Brad Dykeman
(Name of Salesperson/Broker/Broker of Record)
hereby declares that he/she is insured as required by TRESA.

Brad Dykeman (Jun 26, 2024 16:13 EDT) (Signature(s) of Salesperson/Broker/Broker of Record) Brad Dykeman

ACKNOWLEDGEMENT

The Seller(s) hereby acknowledge that the Seller(s) fully understand the terms of this Agreement and have received a copy of this Agreement on the 27th day of June, 2024.

(Signature of Seller) June 27, 2024 (Date)

(Signature of Seller) (Date)

R The trademarks REALTOR®, REALTORS®, MLS®, Multiple Listing Services® and associated logos are owned or controlled by The Canadian Real Estate Association (CREA) and identify the real estate professionals who are members of CREA and the quality of services they provide. Used under license.
© 2024, Ontario Real Estate Association ("OREA"). All rights reserved. This form was developed by OREA for the use and reproduction by its members and licensees only. Any other use or reproduction is prohibited except with prior written consent of OREA. Do not alter when printing or reproducing the standard pre-set portion. OREA bears no liability for your use of this form.

Schedule A to the OREA Listing Agreement

WHEREAS:

- (a) All capitalized terms not defined herein have the meaning defined in the pre-printed form of the Listing Agreement, which together with this Schedule, is referred to herein as the “**Listing Agreement**”;
- (b) The Seller acts in its capacity as court-appointed receiver and manager (the “**Receiver**”) of all the assets, undertakings and properties of Evoke Developments Ottawa GP Corp. and Evoke Developments Ottawa, LP, including, without limitation, the Property. The Receiver was appointed by Order of the Honourable Justice Roger of the Ontario Superior Court of Justice (East Region) (the “**Court**”) dated May 21, 2024;
- (c) Subject to approval of the Court as to any sale, the Seller has the power and authority to offer for sale the Property;
- (d) The Seller seeks to offer the Property for sale on the open market to prospective purchasers (the “**Prospects**”, and each, a “**Prospect**”); and
- (e) The Seller has agreed to appoint the Listing Brokerage as its exclusive agent and advisor, and the Listing Brokerage has agreed to accept such appointment on the terms and conditions provided herein.

1. Responsibilities of the Listing Brokerage

1.1 The Listing Brokerage shall act as the advisor to the Seller in the identification, solicitation of and negotiations with Prospects for the Property and shall use its best commercial efforts to obtain commitments from such Prospects. The Listing Brokerage shall promote and protect the best interests of the Seller and shall bring its professional expertise to perform its obligations under this Agreement.

1.2 Without limiting the generality of the foregoing, the Listing Brokerage shall:

- a) upon receipt of the Seller’s instructions as outlined below, offer the Property for sale on an un-priced basis, save and except for on the Multiple Listings Service (“**MLS**”), for which the price shall be \$1.00 (as a price is required);
- b) facilitate an open and fair market process for the sale for the Property, provide recommendations to the Seller on appropriate strategy, and provide professional advisory services related to the sale of the Property, including vetting of Prospects, financial and non-financial analysis of received offers and negotiating the price for the Property;
- c) prepare the promotional material for the Property;
- d) assemble and package due diligence materials in a virtual data room;


BD

- e) diligently advertise the availability of the Property, provided that no advertisement, notice, flyer, brochure or other document (each, an “**Advertisement**”) relating to the Property shall be disclosed to the public by the Listing Brokerage unless and until such Advertisement has been previously reviewed and approved by the Seller. The Listing Brokerage agrees and acknowledges that the Seller has the sole discretion to approve or reject any Advertisement presented by the Listing Brokerage, in its sole discretion;
- f) actively promote the offering in its day-to-day activities and contacts with Prospects and within the real estate community;
- g) send the relevant marketing materials to the Prospects who inquire as well as disseminate the offering to the public market on MLS as agreed to in the pre-printed form of the Listing Agreement;
- h) place advertisement in the Globe & Mail – Real Estate section upon request by the Seller;
- i) cooperate with other brokerages/agents (“**Cooperating Brokerages**”, and each, a “**Cooperating Brokerage**”) in introducing Prospects to whom the Listing Brokerage is not already dealing or has not solicited. The Listing Brokerage shall provide marketing information to Cooperating Brokerages;
- j) ensure that all offers made by Prospects are in writing and that such offers shall be submitted promptly to the Seller, including offers received from Cooperating Brokerages. The Listing Brokerage acknowledges that it has no authority to promise, commit or bind itself or the Seller to any offers and/or counteroffers made by Prospects or accept any such offers and/or counter offers on behalf of the Seller;
- k) as required by the Seller, report verbally and in writing to the Seller and provide ongoing information reflecting the status of the offering;
- l) not disclose to any person or entity during the Term (as hereinafter defined) and after the expiry or earlier termination of the Agreement any information concerning the Seller, the Property and any Prospects unless the information is not considered to be confidential by the Seller, unless the Seller has first agreed to such disclosure; and
- m) provide such other advice or services as may be required by the Seller.

2. **Authority of the Listing Brokerage**

The Listing Brokerage shall have authority to:

- a) Promote the sale of the Property as described above;
- b) Identify the Listing Brokerage as the listing brokerage to Prospects and Cooperating Brokerages;
- c) Distribute to Prospects all marketing material regarding the offering, as appropriate; and

- d) Contact, communicate, negotiate, and solicit Prospects (all negotiations by the Listing Brokerage shall be subject to the prior approval of the Seller).

3. Advertisement Expenses & Third-Party Consultants

3.1 All advertising and sales promotion shall be subject to the approval of the Seller and all such advertisement and promotional material shall be prepared, published and distributed by and at the expense of the Listing Brokerage. All third-party reports and legal fees shall be subject to the prior written approval of the Seller and payable at the expense of the Seller.

3.2 Notwithstanding anything contained in the pre-printed form of this Listing Agreement, the Listing Brokerage shall not advertise the Property on MLS until the Seller provides prior written authority to do so and all marketing materials have been approved by the Seller. The Listing Brokerage shall have five (5) business days following said approval to post the offering on MLS.

4. Commission Payable to the Listing Brokerage

4.1 The Seller shall pay to the Listing Brokerage upon the successful completion of sale of the Property, a commission equivalent to 3% of the selling price of the Property (the "**Listing Fee**").

In the event that the Property is sold to i) Starbank Developments 2000 Corp. or any of its related parties or ii) Canada Property (Trustee) No. 1 Limited or any of its related entities, the Listing Fee shall be decreased to 1.5% of the selling price of the Property. In the event that there is a Cooperating Brokerage representing the Buyer, the Listing Fee shall be increased by 1% of the selling price of the Property and the Listing Brokerage hereby agrees to pay said Cooperating Brokerage a fee of 1% (the "**Cooperating Fee**").

4.2 The Seller acknowledges that payment of HST applies on the Listing Fee. As it relates to the Listing Fee, a sale constitutes a sale of the individual Property, share transaction, redemption, exercise of first right to purchase, option or other form of sale or transfer of the rights of the subject Property.

4.3 The Seller agrees to notify the Listing Brokerage of the successful completion or closing forthwith following same. The Listing Fee due to the Listing Brokerage pursuant to this Agreement in respect of any transaction hereunder, shall be payable to the Listing Brokerage immediately upon the successful completion of a sale of the Property (which is subject to the approval of the Court).

4.4 The Seller agrees that should a Prospect introduced to the Seller by the Listing Brokerage or by a Cooperating Brokerage during the Term (as hereinafter defined) and proceed with successful completion of the sale of the Property within a period of one hundred and twenty (120) days after the termination or expiration of this Agreement (the "**Holdover Period**"), a commission shall be paid to the Listing Brokerage in the amount set out in paragraph 4.1. In this Section 4.4, the expression "introduced to the Seller" means any Prospect where the Listing Brokerage can produce some reasonable form of verification that the Listing Brokerage has engaged the Prospect in a dialogue confirming some level of interest by the Prospect in considering the suitability of the Property for its use and such Prospect was identified on a list (such Prospects will have, at a

minimum, signed confidentiality agreements with the Listing Brokerage and been introduced to the Property by the Listing Brokerage or a co-operating agent).

4.5 The Seller agrees that during the Term (as hereinafter defined) of this Agreement, the Seller shall advise the Listing Brokerage of all enquiries related to a potential purchase of the Property from any source whatsoever and all offers to purchase submitted to the Seller shall immediately be submitted to the Listing Brokerage before the Seller accepts or rejects same.

4.6 It is further understood that the Listing Brokerage acts as the listing brokerage for the Seller, owes a fiduciary duty to the Seller and will be compensated by the Seller pursuant to this Agreement. The Seller agrees to the possibility of dual agency where the Listing Brokerage may be acting for the Prospect as well as the Seller (however in such case the Cooperating Fee shall not be payable to the Listing Brokerage).

4.7 The Seller represents that, to the knowledge of the Seller, there is currently no listing mandate with any Realtor for the sale of the Property and upon execution hereof, the Listing Brokerage shall be our sole and exclusive agent/brokerage for the sale of the Property during the term of this Agreement.

5. Term

The term of this Agreement shall begin upon acceptance of this Agreement (the "**Commencement Date**") and shall expire one minute before midnight, six (6) months following the Commencement Date (the "**Term**").

6. Termination

6.1 The Seller shall have the right to terminate the Listing Agreement in the following circumstances: (i) the sale process is not approved by the Court; (ii) the Seller obtains any information or knowledge of any gross negligence or malfeasance on the part of the Listing Brokerage in the performance of any of the Listing Brokerage's obligations and agreements hereunder, in which event, the Seller shall have the option to terminate the Listing Agreement without notice and without prejudice to the Seller right to recover from the Listing Brokerage damages for the breach by the Listing Brokerage of such obligations and agreements and without the right of the Listing Brokerage to collect any fees hereunder; or (iii) by giving the Listing Brokerage 30 days' written notice of such termination.

6.2 Notwithstanding any other provision of the Listing Agreement, in the event of termination pursuant to Section 6.1 of this Schedule A, no commission shall be payable pursuant to Section 2 of the pre-printed form of the Listing Agreement or Section 4 of this Schedule A.

6.3 The Listing Brokerage acknowledges and agrees that, notwithstanding any other term contained herein, in the event that the Seller is discharged as Receiver of the Property for any reason, this Agreement shall be deemed to be automatically terminated and the Listing Brokerage shall not be entitled to any commission contemplated in this Agreement nor to any reimbursement of expenses incurred by the Listing Brokerage in connection with this Agreement.

7. Execution and Counterparts

7.1 This Agreement and any other agreement delivered in connection therewith, and any amendments thereto, may be executed by electronic copy in a portable document format or such similar format and if so executed and transmitted, will be for all purposes as effective as if the parties had delivered an executed original of this Agreement, or such other agreement or amendment, as the case may be, and shall be deemed to be made within 2 business days of such transmission.

7.2 This Agreement may be executed in several counterparts, and each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and, notwithstanding their date of execution, shall be deemed to bear date as of the date first written above.

8. Jurisdiction

This Agreement shall be governed and construed in accordance with the laws of the Province of Ontario. If any provision hereof is invalid or unenforceable in any jurisdiction where this Agreement is to be performed, such provision shall be deemed to be deleted and the remaining portions of this Agreement shall remain valid and binding on the parties hereto.

9. Conflict

The parties hereto acknowledge that if there is a conflict between any provision of this Schedule and the pre-printed form of the Listing Agreement, this Schedule shall prevail.

10. "As Is, Where Is"

The Listing Brokerage shall offer the Property for sale on an "as is, where is" basis and the Listing Brokerage shall make no representations, warranties, promises or agreements with respect to or in any way connected with the Property, including, without limitation, the title, description, fitness, state, condition, environmental status nor the existence of any work orders or deficiency notices affecting the Property.

STARBANK DEVELOPMENTS 2000 CORP
Applicant

-and-

EVOKE DEVELOPMENTS OTTAWA GP CORP., et al.
Respondents

Court File No. CV-24-00095400-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
Ottawa

FIRST REPORT OF RECEIVER

CHAITONS LLP

5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

George Benchetrit (LSO No. 34163H)

Tel: (416) 218-1141

E-mail: george@chaitons.com

**Lawyers for Alvarez & Marsal Canada Inc., in its
capacity as Court-Appointed Receiver**