

Court File No.: CV-23-00001810-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Plaintiff

-and-

2644833 ONTARIO INC. and AMINULLAH NAWROZADA also known as AMIN QU

Defendants

RESPONDING MOTION RECORD OF THE DEFENDANTS
(Motion for an Order appointing a Receiver)

December 8, 2023

TOCK DISPUTE RESOLUTION
692 Briar Hill Avenue
Toronto, ON M6B 1L3

Shawn Tock (LSO# 52409E)
Tel: 647-802-4929
Email: shawn@tockdr.com

Lawyers for the Defendants

TO: SERVICE LIST

SERVICE LIST

| No. | Name | Method of Service |
|-----|--|---|
| 1 | <p>Minden Gross LLP Barristers and Solicitors 2200 - 145 King Street West Toronto ON M5H 4G2</p> <p>Rachel Moses (LSO# 42081V) rmoses@mindengross.com Tel: 416-369-4115</p> <p>Carol Liu (LSO# 84938G) cliu@mindengross.com Tel: 416-369-4287</p> <p>Lawyers for the Plaintiff, DUCA Financial Services Credit ion Ltd.</p> | <p>BY EMAIL TO: rmoses@mindengross.com cliu@mindengross.com</p> |
| 2 | <p>MSI SPERGEL INC. 505 Consumers Road, Suite 200, Toronto ON M2J 4V8</p> <p>Mukul Manchanda Tel: (416) 498-4314 E-Mail: mmanchanda@spergel.ca</p> <p>Paula Amaral E-Mail: pamaral@spergel.ca Proposed Receiver</p> | <p>BY E-MAIL TO: mmanchanda@spergel.ca pamaral@spergel.ca</p> |
| 3 | <p>LERNERS LLP 225 King Street, Suite 1600 Toronto ON M5V 3M2</p> <p>Domenic Magisano Tel: (416) 601-4121 E-Mail: dmagisano@lernalers.ca</p> <p>Lawyers for the Proposed Receiver</p> | <p>BY E-MAIL TO: dmagisano@lernalers.ca</p> |

| | | |
|---|--|---|
| 4 | <p>HIS MAJESTY THE KING IN RIGHT OF ONTARIO as represented by Ministry of Finance Legal Services Branch 33 King Street, 6th Floor Oshawa L1H 8H5</p> <p>Attention: Steven Groeneveld Senior Counsel, Ministry of Finance Tel: (905) 440-2470 E-Mail: steven.groeneveld@ontario.ca</p> | <p>BY E-MAIL TO: steven.groeneve@ontario.ca</p> |
| 5 | <p>CANADA REVENUE AGENCY c/o Department of Justice Ontario Regional Office The Exchange Tower, Box 36 130 King Street West, Suite 3400 Toronto, ON M5X 1K6</p> <p>Attention: Diane Winters Tel: (416) 952-8563 E-Mail: diane.winters@justice.gc.ca</p> | <p>BY E-MAIL TO: diane.winters@justice.gc.ca</p> |
| 6 | <p>INSOLVENCY UNIT Province of Ontario E-Mail: insolvency.unit@ontario.ca</p> | <p>BY E-MAIL TO: insolvency.unit@ontario.ca</p> |
| 7 | <p>JOEL S. MOLDAVER 121 George Street North Peterborough, ON K9J 3G3</p> <p>Tel: (705) 743-1801 E-Mail: jmoldaver@cogeco.net Lawyer for Mijar Limited</p> | <p>BY MAIL TO: jmoldaver@cogeco.net</p> |
| 8 | <p>TOWNSHIP OF ORO-MEDONTE 148 Line 7 South Oro-Medonte ON L0L 2E0</p> | <p>BY COURIER</p> |
| 9 | <p>SCARFONE HAWKINS LLP 1 James Street South, 14th Floor Hamilton, ON L8P 4R5</p> <p>Marc Ronca E-Mail: mronca@shlaw.ca Lawyers for Global Fuels Inc.</p> | <p>BY EMAIL TO : mronca@shlaw.ca</p> |

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**ONTARIO
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B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Plaintiff

-and-

2644833 ONTARIO INC. and AMINULLAH NAWROZADA also known as AMIN QU

Defendants

**RESPONDING AFFIDAVIT OF THE DEFENDANTS
(Motion for an Order appointing a Receiver)**

I, NOOR NAWROZADA, of the City of Mississauga, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am affiliated with the defendant 2644833 Ontario Inc. (“4833”) and my brother is the defendant Aminullah Nawrozada (“Amin”), and as such, I have knowledge of the matters to which I hereinafter depose. Where my knowledge is based on information obtained from third parties, I have stated the source of that information and do verily believe it to be true.

2. I have reviewed the affidavit sworn by Ivan Bogdanovich on behalf of the plaintiff DUCA Financial Services Credit Union Ltd. (the “Plaintiff”). I understand that the Plaintiff takes the position that 4833 breached the terms of a mortgage agreement it signed with the Plaintiff, and that Amin is in breach of a guarantee that he provided to the Plaintiff.

3. Prior to the commencement of this litigation, 4833 had never defaulted on its payment obligations to the Plaintiff.

4. As will be set out below, the Plaintiff commenced this proceeding without providing 4833 with an opportunity to cure its alleged breaches.

A. Background

5. My brother Amin and I work together. We own and operate gas stations throughout the Province of Ontario.

6. In or about July 10, 2018, Amin incorporated 4833.

7. On or about December 12, 2018, 4833 purchased the property municipally known as 1525 Highway 11 North, Shanty Bay, Ontario L0L 2L0 (the “Property”) for the sum of \$4,650,000. A copy of the parcel register for the Property is annexed hereto and marked as **Exhibit “A”**.

8. The Property consists of a gas station facility and three rental units.

9. 4833 financed the purchase of the Property with a mortgage from the Royal Bank of Canada (the “RBC Mortgage”).

10. Though Amin is the sole officer and director of 4833, we were both involved in the operation and management of the Property.

11. At the time that 4833 purchased the Property, the gas station was operational. However, it was not an attractive property and was in poor condition.

12. It was always 4833’s intention to renovate the Property and build a new gas station facility thereon.

13. On or about April 9, 2021, 4833 obtained a mortgage from the Plaintiff in the amount of \$2,250,000 (the “Mortgage”). The RBC Mortgage was discharged shortly thereafter.

14. In addition to the mortgage agreement and the additional loan terms related thereto (the “Mortgage Agreement”), 4833 also executed a General Security Agreement (the “GSA”), and

an undertaking not to further encumber the Property without the Plaintiff's prior consent (the "Undertaking") (collectively, the Mortgage Agreement, the GSA and the Undertaking shall be referred to as the "Agreements").

15. The purpose of the Mortgage was to assist with the renovation and maintenance of the Property.

B. The Alleged Breaches of the Agreements

16. The Plaintiff alleges that 4833 has breached the terms of the Agreements (or of the documents which comprise the Agreements, as set out above) in five distinct ways: (a) 4833 failed to comply with its reporting obligations to the Plaintiff; (b) 4833 registered a mortgage that was inferior to the Plaintiff's interest in the Property; (c) a third party registered a Notice on title to the Property; (d) 4833 ceased operations and permitted one or more tenants to leave the Property; and (e) 4833 failed to remit its municipal taxes on a timely basis.

(a) The Reporting Requirements

17. Under the terms of the Mortgage, 4833 was required to provide certain information to the plaintiff on an annual basis (some information was to be provided biannually).

18. Specifically, 4833 was required to provide the Plaintiff with the following information by May 31, 2023:

- a. Biennial net worth statements of Amin (in his role as guarantor);
- b. Current tax bills with confirmation of payment;
- c. A current insurance policy showing the Plaintiff as the first mortgagee and as a loss payee;
- d. Current rent roll and list of rents payable;
- e. Notices of Assessment for 4833 and Amin as the guarantor;

- f. Copies of any new leases;
- g. Review Engagement Financial Statements for 4833 prepared by an accountant (the “Financial Statements”); and
- h. Gas volume sales for the year.

19. On or about May 2, 2023, Tim Chan, a representative of the Plaintiff, sent an email to “aminqu@hotmail.com” regarding the provision of the above documents and asking that they be provided by May 31, 2023.

20. I share this email account with Amin for business purposes,

21. In response to this email, I tried to call Mr. Chan to advise him that I was dealing with a family medical issue and that I needed more time to complete 4833’s reporting requirements.

22. Ultimately, I reached Mr. Chan via email on May 30, 2023, at which time I informed him of the medical issues being dealt with by my family and I asked him for additional time to complete 4833’s submissions.

23. On or about May 31, Rosa Gheisari graciously responded on behalf of the Plaintiff, confirming an extension of 4833’s time to submit its reporting requirements.

24. Generally, 4833’s accountant completes the relevant submissions for the Plaintiff. However, the accountant was out of the office over the summer and only began working on the 4833’s submissions when he returned to the office in August 2023.

25. On or about August 23, 2023, I responded to two emails from the Plaintiff that had been sent to me earlier in the month, but which I had not seen. I informed the Plaintiff at that time that 4833’s accountant would be completing his review of the requisite submissions to the Plaintiff.

26. However, before 4833’s accountant could complete his work, the Plaintiff commenced the within proceeding.

27. 4833 is willing to comply with its reporting requirements. Since the commencement of this proceeding, it provided the Plaintiff with proof of its insurance coverage in accordance with the reporting requirements. A copy of an email to the Plaintiff's counsel, to which the relevant insurance documents were attached, is annexed hereto and marked as **Exhibit "B"**.

(b) Registration of a Second Mortgage

28. As I set out above, it was always 4833's intention to renovate the gas station located on the Property. Amin and I believed that doing so would make the Property more attractive to potential customers and to potential tenants for the rental units.

29. Accordingly, on or about January 31, 2022, a second mortgage in the amount of \$1.3 million was registered against title to the Property in favour of Mijar Limited (the "Second Mortgage").

30. This was a collateral mortgage, registered both against the Property and against a second property as well. The funds were to be used for the renovation of the Property.

31. I note that the Property was purchased for \$4,650,000, and that the Mortgage in the amount of \$2,250,000 was the only encumbrance registered against title to the Property when the Second Mortgage was registered on title.

32. Thus, at all times, there was (and remains) ample equity in the Property to secure the Plaintiff's interest therein.

33. Regardless of this, 4833 has sought alternative funding in order to discharge the Second Mortgage.

(c) Registration of a Notice on Title

34. Neither Amin nor I was aware that on February 23, 2023, Global Fuels Inc. had registered a Notice on title to the Property (the "Notice").

35. Rather, we learned of the Notice upon receiving the Plaintiff's Statement of Claim in this proceeding.

36. Global is in the business of providing fuel to gas stations. It provided this service to the previous owner of the Property and continues to provide the same service to 4833.

37. I reached out to Global Fuels Inc. ("**Global**") to discuss this registration upon learning of the Notice.

38. Upon information and belief, the previous owner from which 4833 purchased the Property owed approximately \$50,000 to Global. Global registered the Notice on title to the Property despite the fact that the previous owner transferred it to 4833 in 2018.

39. I have since spoken with an officer and director of the previous owner, who assured me that the funds owing would be repaid to Global and that the Notice would be discharged accordingly.

(d) Cessation of Operations

40. Finally, I understand that the Plaintiff takes the position that 4833 is in breach of the Mortgage because it is no longer operating the gas station at the Property, and because one or more of the rental units are empty.

41. As previously advised, it was always 4833's intention to renovate the gas station.

42. Given the high cost of maintaining and operating the gas while it was in need of significant repair, the decision was made to shut down its operation prior to the renovation in order to conserve 4833's funds.

43. Two of the three rental units on the Property are currently vacant. I have been in contact with two restaurants chains, Boardwalk Burger and Lava Grill, about operating franchises from the vacant units.

44. Once the gas station is renovated, it is 4833's intention to have all three rental units tenanted. However, until the renovation is complete, the units cannot be tenanted.

(e) Remittance of Municipal Taxes

45. The Plaintiff alleges that, based on a realty tax certificate, 4833 failed to remit realty taxes on a timely basis to the municipality.

46. 4833 is in the process of making arrangements with the municipality to remedy this issue forthwith.

(C) Current Status

47. In light of the commencement of this proceeding, 4833 has sought to sale the Property rather than continue its relationship with the Plaintiff.

48. On or about November 10, 2023, 4833 received an offer to purchase the Property for the sum of \$3,600,000.00. The closing date is currently scheduled for January 31, 2024. A copy of the APS, redacted to remove the name of the purchaser, is annexed hereto and marked as **Exhibit "C"**.

49. The funds from the sale of the Property will be more than enough to discharge the Mortgage on the Property.

50. However, 4833 has significant concerns that if the Plaintiff's receivership motion is granted, it could jeopardize the sale of the Property.

(D) Conclusion

51. For the foregoing reasons, 4833 maintains that the Plaintiff's motion to appoint a receiver is premature.

52. 4833 was never in default of its payment obligations until the Plaintiff commenced this proceeding.

53. Moreover, it fully intends to comply with its reporting obligations under the Mortgage but has been prevented from doing so while it responds to this motion.

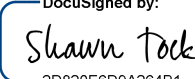
54. Finally, if a receiver is appointed, it could jeopardize the sale of the Property, which is likely the fastest way from the Plaintiff to receive the funds to which it claims to be entitled under the Mortgage and the guarantee.

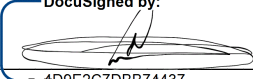
55. For these reasons, 4833 opposes the appointment of a receiver.

56. I swear this affidavit in response to the Plaintiff’s motion for an order appointing a receiver and for no other or improper purpose.

SWORN BEFORE ME: _____ in person X by video conference
By Noor Nawrozada of the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on December 8, 2023, in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (*or as may be*)

DocuSigned by:

2D820E6D9A264B1...
Shawn Tock
A Commissioner, etc, Province of Ontario

DocuSigned by:

4D9E2C7DBB74437...
Noor Nawrozada

B-1-13

DUCA FINANCIAL SERVICES CREDIT UNION LTD.
Plaintiff

-and-

2644833 ONTARIO INC. ET AL.
Defendants

Court File No. CV-23-00001810-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Barrie

RESPONDING AFFIDAVIT OF NOOR NAWROZADA

TOCK DISPUTE RESOLUTION

692 Briar Hill Ave.
Toronto, Ontario M6B 1L3

Shawn Tock (LSO# 52409E)

Tel: (647) 802-4929
E-mail: shawn@tockdr.com

Lawyer for the Defendants

B-1-13

THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF NOOR NAWROZADA
AFFIRMED BEFORE ME THIS 8TH DAY
OF DECEMBER, 2023

DocuSigned by:

2D820E6D9A264B1...

Shawn Tock
A Commissioner for taking affidavits

LAND
REGISTRY
OFFICE #51

58552-0076 (LT)

PAGE 1 OF 7
PREPARED FOR SHAWN TOCK
ON 2023/12/08 AT 15:51:37

B-1-15

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

PROPERTY DESCRIPTION: PT LT A CON 2 EPR ORO PTS 1 & 2, 51R6107; ORO-MEDONTEPROPERTY REMARKS:ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

2000/05/23

OWNERS' NAMES

2644833 ONTARIO INC.

CAPACITY SHARE

ROWN

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|---|------------|-----------------|--------|----------------------------|------------------------------------|---------------|
| <p>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 2000/05/23 ON THIS PIN**</p> <p>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 2000/05/23**</p> <p>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2000/05/19 **</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 *</p> <p>** 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</p> <p>** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY</p> <p>** CONVENTION.</p> <p>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</p> <p>**DATE OF CONVERSION TO LAND TITLES: 2000/05/23 **</p> | | | | | | |
| RO372254 | 1971/10/15 | LEASE | | *** COMPLETELY DELETED *** | LEEWENS, JASPER C. | |
| 51R6107 | 1976/09/01 | PLAN REFERENCE | | | | C |
| RO1192597 | 1992/07/08 | CHARGE | | *** COMPLETELY DELETED *** | CALAUTTI, ROCCO CALAUTTI, MARIA | |
| RO1192598 | 1992/07/08 | CHARGE | | *** COMPLETELY DELETED *** | ROYAL BANK OF CANADA | |
| RO1348371 | 1997/06/13 | NOTICE OF LEASE | | *** COMPLETELY DELETED *** | SHELL CANADA PRODUCTS LIMITED | |
| RO1354976 | 1997/08/15 | CHARGE | | *** COMPLETELY DELETED *** | | |

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.

B-1-15

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|-----------|------------|--------------------|--------|---|----------------------------|---------------|
| | | | | | THE TORONTO-DOMINION BANK | |
| | | | | | | |
| | | | | | | |
| RO1354977 | 1997/08/15 | POSTPONEMENT | | *** COMPLETELY DELETED *** | | |
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| | | | | | | |
| RO1356188 | 1997/08/26 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** | | |
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| RO1415480 | 1999/07/08 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** | | |
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| | | | | | | |
| RO1415481 | 1999/07/08 | TRANSFER | | *** COMPLETELY DELETED *** | 1362692 ONTARIO LIMITED | |
| | | | | | | |
| | | | | | | |
| RO1415482 | 1999/07/08 | CHARGE | | *** COMPLETELY DELETED *** | 972560 ONTARIO LTD. | |
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| | | | | | | |
| RO1415483 | 1999/07/08 | ASSIGNMENT GENERAL | | *** COMPLETELY DELETED *** | | |
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| SC98615 | 2003/03/07 | NOTICE | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMITED | 972560 ONTARIO LTD. | |
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| | | | | | | |
| SC131391 | 2003/07/11 | APL (GENERAL) | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMITED | | |
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| SC131392 | 2003/07/11 | CHARGE | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMITED | INNISFIL CREDIT UNION LTD. | |
| | | | | | | |
| | | | | | | |
| SC131393 | 2003/07/11 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMTIED | INNISFIL CREDIT UNION LTD. | |
| | | | | | | |
| | | | | | | |
| SC131394 | 2003/07/11 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** 972560 ONTARIO LTD. | | |
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| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|-----------|--|-------------------|--------|--|--------------------------------------|---------------|
| SC154358 | 2003/09/25 | NOTICE OF LEASE | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMITED | SHELL CANADA PRODUCTS LIMITED | |
| | <i>REMARKS: SC486774</i> | | | | | |
| SC429669 | 2006/04/24 | APL (GENERAL) | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMITED | | |
| | <i>REMARKS: - DELETES LEASE RO372254</i> | | | | | |
| SC429858 | 2006/04/24 | TRANSFER | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMITED | AL-CHERAGH INTERNATIONAL CORPORATION | |
| SC429859 | 2006/04/24 | CHARGE | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | PEOPLES CREDIT UNION LIMITED | |
| SC429864 | 2006/04/24 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | PEOPLES CREDIT UNION | |
| SC429916 | 2006/04/24 | CHARGE | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | 1362692 ONTARIO LIMITED | |
| SC429917 | 2006/04/24 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | 1362692 ONTARIO LIMITED | |
| | <i>REMARKS: RE: SC429916</i> | | | | | |
| SC451391 | 2006/06/28 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** PEOPLES CREDIT UNION LIMITED | | |
| | <i>REMARKS: RE: SC131392</i> | | | | | |
| SC524543 | 2007/03/01 | NOTICE OF LEASE | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | SHELL CANADA PRODUCTS LIMITED | |
| SC534040 | 2007/04/12 | CHARGE | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | ARSHAD, MUHAMMAD ARSHAD, TAHIRA | |
| SC711628 | 2009/01/12 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** ARSHAD, MUHAMMAD ARSHAD, TAHIRA | | |
| | <i>REMARKS: RE: SC534040</i> | | | | | |
| SC711630 | 2009/01/12 | CHARGE | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | PEOPLES CREDIT UNION LIMITED | |

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|-----------|----------------------------------|--------------------|--------|--|------------------------------|---------------|
| SC711632 | 2009/01/12 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | PEOPLES CREDIT UNION LIMITED | |
| | <i>REMARKS: SC711630 - RENTS</i> | | | | | |
| SC711708 | 2009/01/13 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** 1362692 ONTARIO LIMITED | | |
| | <i>REMARKS: RE: SC429916</i> | | | | | |
| SC899724 | 2011/05/05 | CHARGE | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | BANK OF MONTREAL | |
| SC899725 | 2011/05/05 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** AL-CHERAGH INTERNATIONAL CORPORATION | BANK OF MONTREAL | |
| | <i>REMARKS: SC899724.</i> | | | | | |
| SC909031 | 2011/06/16 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** PEOPLES CREDIT UNION LIMITED | | |
| | <i>REMARKS: SC429859.</i> | | | | | |
| SC922396 | 2011/08/10 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** PEOPLES CREDIT UNION LIMITED | | |
| | <i>REMARKS: SC711630.</i> | | | | | |
| SC964949 | 2012/02/24 | CONSTRUCTION LIEN | | *** COMPLETELY DELETED *** SOLOMON ENTERPRISES CORP. | | |
| SC1180060 | 2014/12/04 | NO SEC INTEREST | | *** COMPLETELY DELETED *** SNAP COMMERCIAL FINANCE CORP. | | |
| SC1184820 | 2014/12/24 | CERT TAX ARREARS | | *** COMPLETELY DELETED *** THE CORPORATION OF THE TOWNSHIP OF ORO-MEDONTE | | |
| SC1333123 | 2016/08/18 | APL (GENERAL) | | *** COMPLETELY DELETED *** THE CORPORATION OF THE TOWNSHIP OF ORO-MEDONTE | | |
| | <i>REMARKS: SC1184820</i> | | | | | |
| SC1362455 | 2016/11/17 | LIEN | | *** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF NATIONAL REVENUE | | |
| SC1401963 | 2017/04/18 | APL DEL CONST LIEN | | *** COMPLETELY DELETED *** SOLOMON ENTERPRISES CORP. | | |

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|-----------|------------|--|-------------|---|----------------------|---------------|
| | | <i>REMARKS: SC964949.</i> | | | | |
| SC1439962 | 2017/08/11 | DIR TITLES ORDER | | *** COMPLETELY DELETED *** DIRECTOR OF TITLES | | |
| SC1502966 | 2018/04/10 | APL COURT ORDER | | *** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE | MSI SPERGEL INC. | |
| | | <i>REMARKS: APPOINTING MSI SPERGEL INC., AS RECEIVER</i> | | | | |
| SC1506328 | 2018/04/26 | APL (GENERAL) | | *** COMPLETELY DELETED *** MSI SPERGEL INC. | | |
| | | <i>REMARKS: DELETES SC154358</i> | | | | |
| SC1506329 | 2018/04/26 | APL (GENERAL) | | *** COMPLETELY DELETED *** MSI SPERGEL INC. | | |
| | | <i>REMARKS: SC524543</i> | | | | |
| SC1518031 | 2018/06/15 | APL VESTING ORDER | | *** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE | 2633720 ONTARIO INC. | |
| | | <i>REMARKS: DELETED 2021.06.01 TWENDOVER</i> | | | | |
| SC1518820 | 2018/06/20 | CHARGE | | *** COMPLETELY DELETED *** 2633720 ONTARIO INC. | 2554977 ONTARIO INC. | |
| SC1533108 | 2018/08/16 | LR'S ORDER | | *** COMPLETELY DELETED *** LAND REGISTRAR, SIMCOE LAND REGISTRY OFFICE | | |
| | | <i>REMARKS: DELETE SC1502966</i> | | | | |
| SC1563088 | 2018/12/12 | TRANSFER | \$4,650,000 | 2633720 ONTARIO INC. | 2644833 ONTARIO INC. | C |
| | | <i>REMARKS: PLANNING ACT STATEMENTS.</i> | | | | |
| SC1563089 | 2018/12/12 | CHARGE | | *** COMPLETELY DELETED *** 2644833 ONTARIO INC. | ROYAL BANK OF CANADA | |
| SC1563090 | 2018/12/12 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** 2644833 ONTARIO INC. | ROYAL BANK OF CANADA | |
| | | <i>REMARKS: SC1563089.</i> | | | | |
| SC1563155 | 2018/12/12 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** 2554977 ONTARIO INC. | | |
| | | <i>REMARKS: SC1518820.</i> | | | | |
| SC1581955 | 2019/03/19 | CHARGE | | *** COMPLETELY DELETED *** | | |

LAND
REGISTRY
OFFICE #51

58552-0076 (LT)

PAGE 6 OF 7
PREPARED FOR SHAWN TOCK
ON 2023/12/08 AT 15:51:37

B-1-20

* 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 |
|-----------|---------------------|--------------------|-------------|--|--|---------------|
| SC1581956 | 2019/03/19 | NO ASSGN RENT GEN | | 2644833 ONTARIO INC. *** COMPLETELY DELETED *** 2644833 ONTARIO INC. | PAHAL, RAJINDER SINGH PAHAL, RAJINDER SINGH | |
| | REMARKS: SC1581955. | | | | | |
| SC1629792 | 2019/10/07 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** PAHAL, RAJINDER SINGH | | |
| | REMARKS: SC1581955. | | | | | |
| SC1629795 | 2019/10/07 | CHARGE | | *** COMPLETELY DELETED *** 2644833 ONTARIO INC. | SANDHU, GURPREET SANDHU, VIRDEEP | |
| SC1629796 | 2019/10/07 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** 2644833 ONTARIO INC. | SANDHU, GURPREET SANDHU, VIRDEEP | |
| | REMARKS: SC1629795. | | | | | |
| SC1759527 | 2021/03/02 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** SANDHU, GURPREET SANDHU, VIRDEEP | | |
| | REMARKS: SC1629795. | | | | | |
| SC1770188 | 2021/04/09 | CHARGE | \$2,250,000 | 2644833 ONTARIO INC. | DUCA FINANCIAL SERVICES CREDIT UNION LTD. | C |
| SC1770189 | 2021/04/09 | NO ASSGN RENT GEN | | 2644833 ONTARIO INC. | DUCA FINANCIAL SERVICES CREDIT UNION LTD. | C |
| | REMARKS: SC1770188. | | | | | |
| SC1771969 | 2021/04/15 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** ROYAL BANK OF CANADA | | |
| | REMARKS: SC1563089. | | | | | |
| SC1789250 | 2021/06/03 | CHARGE | | *** COMPLETELY DELETED *** 2644833 ONTARIO INC. | KUMAR, RAJEEV | |
| SC1789513 | 2021/06/04 | NO ASSGN RENT GEN | | *** COMPLETELY DELETED *** 2644833 ONTARIO INC. | KUMAR, RAJEEV | |
| | REMARKS: SC1789250 | | | | | |
| SC1816382 | 2021/08/19 | TRANSFER OF CHARGE | | *** COMPLETELY DELETED *** KUMAR, RAJEEV | BAINS, RANJIT KAUR 2595472 ONTARIO INC. | |

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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.

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/ CHKD |
|-----------|------------|---------------------|-------------|---|---------------|---------------|
| | | REMARKS: SC1789250. | | | | |
| SC1831705 | 2021/10/05 | DISCH OF CHARGE | | *** COMPLETELY DELETED *** BAINS, RANJIT KAUR 2595472 ONTARIO INC. KUMAR, RAJEEV | KUMAR, RAJEEV | |
| | | REMARKS: SC1789250. | | | | |
| SC1865825 | 2022/01/31 | CHARGE | \$1,300,000 | 2644833 ONTARIO INC. | MIJAR LIMITED | C |
| SC1865826 | 2022/01/31 | NO ASSGN RENT GEN | | 2644833 ONTARIO INC. | MIJAR LIMITED | C |
| SC1962289 | 2023/02/09 | NOTICE | | 2644833 ONTARIO INC. | MIJAR LIMITED | C |
| SC1964252 | 2023/02/23 | NOTICE | \$1 | GLOBAL FUELS INC. | | C |

THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF NOOR NAWROZADA
AFFIRMED BEFORE ME THIS 8TH DAY
OF DECEMBER, 2023

DocuSigned by:
Shawn Tock
2D820E6D9A264B1...

Shawn Tock
A Commissioner for taking affidavits



B-1-23
Shawn Tock <shawn@tockdr.com>

Shantybay

David Fogel dfogel@k alaw com
To: Rachel Moses <rmoses@mindengross.com>
Cc: "shawn@tockdr.com" <shawn@tockdr.com>

14 November 2023 at 13 15

Rachel,

See attached the insurance certificate which I received from Mr. Tock which lists Duca as an insured. The insurance certificate states it has an effective date of June 21, 2023 to an expiry date of June 21, 2024.

Please confirm receipt of same, and trusting this insurance issue is now put to rest.

David Fogel

Lawyer


647-309-4842

This email is confidential.

From Shawn Tock hawn@tockdr.com
Sent: Tuesday, November 14, 2023 11:32 AM

To: David Fogel <dfogel@ksalaw.com>

Subject: Fwd: Shantybay

 **DUCA-Financial-Serv_2644833-Ontario_23-24-Property.pdf**
95K

B-1-23

019



CERTIFICATE OF PROPERTY INSURANCE

B-1-24

This certificate is issued as a matter of information only and confers no rights upon the certificate holder and imposes no liability on the insurer.
This certificate does not amend, extend or alter the coverage afforded by the policies below.

| 1. CERTIFICATE HOLDER - NAME AND MAILING ADDRESS | | 2. INSURED'S FULL NAME AND MAILING ADDRESS | |
|--|----|--|---------------------|
| DUCA Financial Services Credit Union Ltd. | | 2644833 Ontario Inc. | |
| 5255 Yonge St. 4th Floor | | 1101 Field Avenue | |
| Toronto | ON | POSTAL CODE M2N 6P4 | Milton |
| | | | ON |
| | | | POSTAL CODE L9T 6G6 |

| 3. LOCATION OF PREMISES / DESCRIPTION OF PROPERTY TO WHICH THIS CERTIFICATE APPLIES |
|---|
| Re: 1525 11 Hwy, Shanty Bay, On L0L 2L0 |

| 4. COVERAGES |
|--|
| This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated notwithstanding any requirements, terms or conditions of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all terms, exclusions and conditions of such policies. |

| TYPE OF INSURANCE | INSURANCE COMPANY AND POLICY NUMBER | EFFECTIVE DATE YYYY/MM/DD | EXPIRY DATE YYYY/MM/DD | LIMITS OF INSURANCE (Canadian dollars unless indicated otherwise) | | |
|--|---------------------------------------|------------------------------|---------------------------|---|------------|---------------------|
| | | | | COVERAGE | DEDUCTIBLE | AMOUNT OF INSURANCE |
| <input checked="" type="checkbox"/> PROPERTY <input type="checkbox"/> NAMED PER LS <input checked="" type="checkbox"/> BROAD FORM <input type="checkbox"/> CO-INSURANCE % _____ <input type="checkbox"/> STATED AMOUNT <input type="checkbox"/> MARG N CLAUSE % _____ | Intact Insurance Company RRS074142 | 2023/06/21 | 2024/06/21 | <input checked="" type="checkbox"/> P.O.E D <input checked="" type="checkbox"/> RC <input type="checkbox"/> ACV <input type="checkbox"/> BUILDING <input type="checkbox"/> RC <input type="checkbox"/> ACV <input type="checkbox"/> EQUIPMENT <input type="checkbox"/> RC <input type="checkbox"/> ACV <input type="checkbox"/> STOCK <input type="checkbox"/> RC <input type="checkbox"/> ACV <input type="checkbox"/> C.O.E D <input type="checkbox"/> RC <input type="checkbox"/> ACV <input type="checkbox"/> BUSINESS INCOME <input type="checkbox"/> EXTRA EXPENSE <input type="checkbox"/> RENTAL INCOME <input checked="" type="checkbox"/> EARTHQUAKE 3% or \$100,000 <input checked="" type="checkbox"/> FLOOD 25,000 <input checked="" type="checkbox"/> SEWER BACKUP 5,000 | 1,000 | 549,738 |
| <input type="checkbox"/> LAND MAR NE <input type="checkbox"/> NAMED PER LS <input type="checkbox"/> BROAD FORM <input type="checkbox"/> ACTUAL CASH VALUE <input type="checkbox"/> REPLACEMENT COST <input type="checkbox"/> BOILER & MACHINERY/ EQU PMENT BREAKDOWN OPTION # _____ | | | | <input type="checkbox"/> CONTRACTOR'S EQUIPMENT <input type="checkbox"/> CARGO _____ <input type="checkbox"/> <input type="checkbox"/> | | |

| 5. ADDITIONAL INFORMATION |
|--|
| The Certificate Holder is added as First Mortgagee and Loss Payee-Subject to the IBC Standard Mortgage Clause as their interest may appear. Equipment Breakdown, Profits-Actual Loss Sustained-12months, Land and Water Pollution Clean up Extension, Extended Building Bylaws Extension, Stated Amount Co-Insurance Extension-Included |

| 6. CANCELLATION |
|---|
| Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail <u>30</u> days written notice to the certificate holder named above, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives. |

| 7. BROKERAGE/AGENCY FULL NAME AND MAILING ADDRESS | 8. INTERESTED PARTY NAME AND MAILING ADDRESS |
|---|--|
| Arthur J. Gallagher Canada Limited | DUCA Financial Services Credit Union Ltd. |
| 120 South Town Centre Blvd. | 5255 Yonge St. 4th Floor |
| Markham | Toronto |
| ON | On |
| POSTAL CODE L6G1C3 | POSTAL CODE M2N 6P4 |

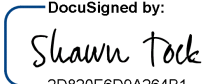
| 9. CERTIFICATE AUTHORIZATION | BROKER CLIENT ID: | NATURE OF INTEREST: |
|---|-------------------|---------------------|
| ISSUER Arthur J. Gallagher Canada Limited | | |
| AUTHORIZED REPRESENTATIVE Achal Gupta | | |
| SIGNATURE OF AUTHORIZED REPRESENTATIVE | | |
| CONTACT INFORMATION | | |
| TYPE Phone NO. 905-479-6670 | | TYPE Fax |
| EMAIL ADDRESS Achal_Gupta@ajg.com | | |

B-1-24

DATE 2023/05/16

020

THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF NOOR NAWROZADA
AFFIRMED BEFORE ME THIS 8TH DAY
OF DECEMBER, 2023

DocuSigned by:

2D820E6D9A264B1...

Shawn Tock
A Commissioner for taking affidavits



Agreement of Purchase and Sale Commercial

B-1-26

Form 500

for use in the Province of Ontario

This Agreement of Purchase and Sale dated this 10 day of November, 2023

BUYER: [Redacted], agrees to purchase from
(Full legal names of all Buyers)

SELLER: 2644833 Ontario Inc, the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address 1525 Hwy 11 North

fronting on the Hwy 11 side of

in the Shantybay Ontario

and having a frontage of 350.02 more or less by a depth of 190.00 more or less

and legally described as
Lt 1 P1 1169 Oro-Medonte

(Legal description of land including easements not described elsewhere) (the "property")

PURCHASE PRICE: Dollars (CDN\$) 3,600,000.00

Three Million Six Hundred Thousand Dollars

DEPOSIT: Buyer submits upon acceptance
(Herewith/Upon Acceptance/as otherwise described in this Agreement)

One Hundred Thousand Dollars (CDN\$) 100,000.00

by negotiable cheque payable to Seller's Lawyer "Deposit Holder"
to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A attached hereto form(s) part of this Agreement.

1. IRREVOCABILITY: This offer shall be irrevocable by Buyer until 11:59 on
(Seller/Buyer) (a.m./p.m.)
the 13 day of November, 2023, after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. COMPLETION DATE: This Agreement shall be completed by no later than 6:00 p.m. on the 31 day of
January, 2024. Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S): [Redacted]

INITIALS OF SELLER(S): [Signature]

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3. **NOTICES:** The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

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FAX No.:
(For delivery of Documents to Seller)

FAX No.:
(For delivery of Documents to Buyer)

Email Address:
(For delivery of Documents to Seller)

Email Address:
(For delivery of Documents to Buyer)

4. **CHATELS INCLUDED:**
.....
.....
.....
.....

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

5. **FIXTURES EXCLUDED:**
NONE

6. **RENTAL ITEMS (Including Lease, Lease to Own):** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:
NONE

The Buyer agrees to co-operate and execute such documentation as may be required to facilitate such assumption.

7. **HST: If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be in addition to the Purchase Price.** The Seller will not collect HST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Excise Tax Act ("ETA"), together with a copy of the Buyer's ETA registration, a warranty that the Buyer shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Seller in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing, that the transaction is not subject to HST. Any HST on chattels, if applicable, is not included in the Purchase Price.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):

AN

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8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the 12 day of January, 2024, (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there

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are no outstanding work orders or deficiency notices affecting the property, that its present use (Commercial) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.

10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telecommunication services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telecommunication lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.

11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Ontario. Unless otherwise agreed to by the lawyers, such exchange of Requisite Deliveries shall occur by the delivery of the Requisite Deliveries of each party to the office of the lawyer for the other party or such other location agreeable to both lawyers.

12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller.

14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



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- 15. PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
- 16. DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O.1990.
- 17. RESIDENCY:** (a) Subject to (b) below, the Seller represents and warrants that the Seller is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Seller shall deliver to the Buyer a statutory declaration that Seller is not then a non-resident of Canada;
(b) provided that if the Seller is a non-resident under the non-residency provisions of the Income Tax Act, the Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate.
- 18. ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
- 19. TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
- 20. PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.
- 21. TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Lynx high value payment system as set out and prescribed by the *Canadian Payments Act (R.S.C., 1985, c. C-21)*, as amended from time to time.
- 22. FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O.1990 unless the spouse of the Seller has executed the consent hereinafter provided.
- 23. UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
- 24. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.
- 25. CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
- 26. AGREEMENT IN WRITING:** If there is 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 Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
- 27. ELECTRONIC SIGNATURES:** The parties hereto consent and agree to the use of electronic signatures pursuant to the *Electronic Commerce Act, 2000, S.O. 2000, c17* as amended from time to time with respect to this Agreement and any other documents respecting this transaction.
- 28. TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):

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29. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms hereof. SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal: B-1-30

[Redacted Signature] (Witness) [Redacted Signature] (Buyer/Authorized Signing Officer) [Redacted Seal] (Seal) [Redacted Date] (Date)

I, the Undersigned Seller, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer. SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

[Redacted Signature] (Witness) [Signature: A] (Seller/Authorized Signing Officer) 2664833 Ontario Inc (Seal) November 13-2023 (Date)
[Redacted Signature] (Witness) [Redacted Signature] (Seller/Authorized Signing Officer) [Redacted Seal] (Seal) [Redacted Date] (Date)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the disposition evidenced 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 give full force and effect to the sale evidenced herein.

[Redacted Signature] (Witness) [Redacted Signature] (Spouse) [Redacted Seal] (Seal) [Redacted Date] (Date)

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at 12:45 (a.m./p.m.) this 13th day of November, 2023. [Signature: A] (Signature of Seller or Buyer)

INFORMATION ON BROKERAGE(S)
Listing Brokerage: Century 21 Eady Realty Inc, Brokerage (Tel.No.)
(Salesperson/Broker/Broker of Record Name)
Co-op/Buyer Brokerage: Homelife Maple Leaf Realty Ltd. (Tel.No.)
(Salesperson/Broker/Broker of Record Name)

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

[Signature: A] (Seller) 2664833 Ontario Inc (Date)
[Redacted Signature] (Seller) (Date)
Address for Service (Tel. No.)
Seller's Lawyer (Tel. No.)
Address (Tel. No.)
Email (Tel. No.) (Fax. No.)

I acknowledge receipt of my signed copy of this accepted Agreement of

[Redacted Signature] (Buyer) (Date)
Address for Service (Tel. No.)
Buyer's Lawyer (Tel. No.)
Address (Tel. No.)
Email (Tel. No.) (Fax. No.)

FOR OFFICE USE ONLY COMMISSION TRUST AGREEMENT
To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale:
In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.
DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale. Acknowledged by:
[Redacted Signature] (Authorized to bind the Listing Brokerage) [Redacted Signature] (Authorized to bind the Co-operating Brokerage)



Schedule A

B-1-31

Form 500

for use in the Province of Ontario

Agreement of Purchase and Sale – Commercial

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: [REDACTED], and

SELLER: 2644833 Ontario Inc

for the purchase and sale of 1525 Hwy 11 North Shantybay Ontario

ON LOR1B3 dated the 10 day of November, 2023

Buyer agrees to pay the balance as follows:

Purchaser agrees to pay the balance of the purchase price, subject to adjustments, in cash or by certified cheque, to the Vendor on the completion of this transaction. This Offer is conditional upon the Buyer arranging satisfactory financing within 60 banking days following the date of acceptance of this offer, failing which this offer shall become null and void and the deposit shall be returned to the Buyer in full without interest and deduction. Seller agrees to provide access to the Property for appraisal if needed by the Bank.

This Offer is conditional upon the inspection of the subject property by a qualified BUILDING inspector at the Buyer's own expense and the obtaining of a report satisfactory to the Buyer in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller within 25 banking days (Excluding Saturdays, Sundays, and Statutory Holidays) from the date of acceptance of this offer, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to co-operate in providing access to the property for the purpose of this inspection. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller within the time period stated herein.

The parties to this transaction hereby acknowledge that the Co-operating Broker acts for the Buyer under a Buyer's Agency Agreement and that the Co-operating Broker will be compensated through the Listing Broker.

The parties to this agreement acknowledge that the Province of Ontario is currently implementing "Current Value Assessment" (CVA). Any information made available by the Seller, or any broker or salesperson in connection with assessment or property tax information predates CVA. There shall be no obligating of or claim made against any party hereunder, or any broker or salesperson referred to herein, arising out of, or in any way related to assessment or property tax information in connection with the property.

Seller agrees to allow the Buyer to view the said property Two more times before the date of closing provided notice has been given to the Seller 24 (twenty-four) hours in advance of such visit.

This Offer is conditional upon the approval of the terms hereof by the Buyer's Solicitor and seller's solicitor within 25 days. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.



B-1-31



Schedule A

B-1-32

Form 500

for use in the Province of Ontario

Agreement of Purchase and Sale – Commercial

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: [REDACTED], and

SELLER: 2644833 Ontario Inc

for the purchase and sale of 1525 Hwy 11 North Shantybay Ontario

ON LOR1B3 dated the 10 day of November, 2023

Buyer agrees to pay the balance as follows:

This agreement upon acceptance by both parties shall be conditional for a period of ten (20) business day (Monday-Friday), the buyer (s) for due diligence to satisfy himself in its sole exclusive and arbitrary discretion as of the checking condition and existing use of the business. Failing this condition, this Offer shall become null and void and the deposit shall be returned to the Buyer in full without interest or deduction. This condition is included for the benefit of the Buyer and may be waived at his sole option within the time stated herein.

The Seller represents and warrants to the best of the Seller's knowledge and belief that during the period of his ownership of the property, that: all environmental laws and regulations have been complied with, no hazardous conditions or substances exist on the land, no limitations or restrictions affecting the continued use of the property exist, other than those specifically provided for herein, no pending litigation respecting Environmental matters; no outstanding Ministry of Environment Orders, investigations, charges or prosecutions regarding Environmental matters exist, there has been no prior use as a waste disposal site, and all applicable licenses are in force.

The Seller further authorizes (insert appropriate Ministry), to release to the Buyer, the Buyer's Agent or Solicitor, any and all information that may be on record in the Ministry office with respect to the said property. The Parties agree that this representation and warranty shall form an integral part of this Agreement and survive the completion of this transaction, but apply only to circumstances existing at completion of this transaction.

The Seller warrants that the lands are free and clear of any local improvement charges and will be free and clear of local improvement charges on completion and that Seller has not received any notification of future local improvement charges for the property. If local improvement charges are not paid as of completion, they will be adjusted as a benefit to the Buyer on completion.

This offer is conditional upon the verification of the permitted use by the city, unless buyer gives the notice in writing no later than 20th day following the acceptance of this offer to the seller that this condition is fulfilled, This offer shall be null and void and deposit will be returned in full without any deduction.

The Seller covenants and warrants (all covenants and warranties shall survive on closing) that:

- (a) The Seller is a resident of Canada within the meaning of the Income Tax Act of Canada.**
- (b) The Seller is a valid user of the corporation under the laws of the Province of Ontario.**
- (c) There are no work orders or deficiency notices outstanding against the property and if so will be complied with, at the seller's expense, on or before the closing date.**

This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S): [REDACTED]

INITIALS OF SELLER(S):

B-1-32

Agreement of Purchase and Sale – Commercial

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: and

SELLER: **2644833 Ontario Inc**

..... **1525 Hwy 11 North Shantybay Ontario**

for the purchase and sale of

ON LOR1B3 10 November 23

..... dated the day of, 20.....

Buyer agrees to pay the balance as follows:

Both Parties agrees to extend the completion date (within a reasonable time frame) if the Seller's lawyer needs more time to complete any paperwork relating to the completion of this transaction.

This Offer is conditional upon the Buyer obtaining at the Buyer's own expense, Phase I, II AND III study of land and soil tests verifying the land is satisfactory to the Buyer, in the Buyer's sole and absolute discretion. Unless the Buyer gives notice in writing delivered to the Seller within 20 days upon acceptance of this offer, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to co-operate in providing access to the land for the purpose of the soil tests. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller within the time period stated herein. If the Buyer fails to provide a notice of fulfillment of the condition or fails to waive the condition as provided above, the Buyer agrees to reasonably restore any alterations to the condition of the property caused by the soil tests.

PREPARATION OF DOCUMENTS

- 1) Transfer/Deed to be prepared at the expense of the Seller in a form acceptable to the Buyer's Solicitor, and if a Charge/Mortgage is to be given back, same to be prepared at the expense of the Buyer on a form acceptable to the Seller's Solicitor.
- 2) The Transfer/Deed to be given to the Buyer shall contain a statement completed by the Seller's Solicitor pursuant to Section 50(22) of the Planning Act.
- 3) General Conveyance and Bill of Sale shall be prepared by the Seller in form acceptable to the Buyer's Solicitor and delivery to the Buyer on closing.
- 4) A general indemnity will be provided by the Seller with respect to any liens, law suits, claims, damages due up to the date of closing.
- 5) The Affidavit of Residence and of Value of the consideration required under the Land Transfer Tax Act shall be prepared by the Buyer.

This offer is conditional upon the purchaser having a precision - tank and line leak detector test performed on the underground petroleum tanks at his own expense at least 15 days prior the date settling for completion and assuring himself that there are no leaks in the system, failing which this offer shall become null and void and the deposit will be paid back to the purchaser in full without any deduction. This clause is included for the benefit of the purchaser and may be waived at his soul option. In case there is any leak vendor agrees to fix it and pay for the test expenses failing which this offer shall become null and void the deposit shall be returned to the purchaser in full without any deduction.

This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):

Form 500

for use in the Province of Ontario

Agreement of Purchase and Sale – Commercial

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: [REDACTED], and

SELLER: **2644833 Ontario Inc**

for the purchase and sale of **1525 Hwy 11 North** **Shantybay Ontario**

ON LOR1B3 dated the **10** day of **November**, 20**23**

Buyer agrees to pay the balance as follows:

The Seller and Shareholder(s) covenants, warrants and represents (which covenants, warranties and representations shall survive closing but apply only to the state of the property or equipment at the completion date) that:

- 1) The Seller has full power and authority to accept this offer and to perform its obligations under this Agreement and the entering into and performance of this Agreement do not conflict with or breach its articles of incorporation or by-laws or any Agreement by which it is bound;
- 2) Neither the Seller nor any tenant of the Seller have received any notice of any violation of any applicable federal, provincial or municipal laws, regulations, order or approvals writs, injunctions, orders or judgements outstanding or lawsuits, claims, proceedings or investigations pending or threatened relating to the ownership, use, maintenance or operation of the Property, nor is there to the knowledge of the Seller, any basis for such lawsuits, claims, proceedings or investigations being instituted or filed;
- 5) The Property and the business is to the best of the Seller's knowledge is in compliance in all material respects, with all applicable laws, rules, regulation, ordinances and standards, including but not limited to, environmental, occupational safety and health, zoning laws and building codes. The licenses, permits, and other governmental approvals and authorities held by the Business are in full force and effect; no violations thereof are or have been recorded; no proceedings is pending or, to the best of the Seller's knowledge and belief, threatened, which could result

This offer is conditional for (10) business days upon the vendor to provided the following information upon acceptance of this offer:

- 1) Copy of the existing survey.
- 2) Complete drawings in his possession (Electrical, Mechanical, Plumbing, Site plans etc.), and all environmental records and papers if he has any of these in his possession.
- 3) Proof of Gas & store Sale during the last 24 months from Global Fuel.
- 4) Copy of Agreement with Global Fuel.
- 5) Copy of all lease agreements.
- 6) Copy of Hydro ,Water and Property Tax Bill of last 24 months .
- 7) Copy of most recent fire, health, fuel and safety inspection if he has any of these in his possession.
- 8) List of chattels owned, leased and provided by Suppliers.

This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S): [REDACTED]

INITIALS OF SELLER(S): 

DUCA FINANCIAL SERVICES CREDIT UNION LTD.
Plaintiff

-and-

2644833 ONTARIO INC. ET AL.
Defendants

Court File No. CV-23-00001810-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Barrie

**RESPONDING MOTION RECORD OF THE
DEFENDANTS**

TOCK DISPUTE RESOLUTION

692 Briar Hill Ave.
Toronto, Ontario M6B 1L3

Shawn Tock (LSO# 52409E)

Tel: (647) 802-4929
E-mail: shawn@tockdr.com

Lawyer for the Defendants