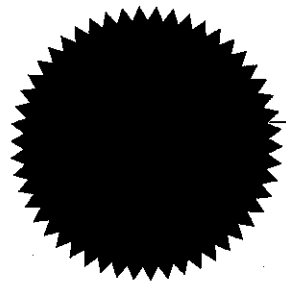


2.1



IN THE YEAR TWO THOUSAND ELEVEN, on this TWENTY-FOURTH (24th) day of March.

BEFORE Mtre. Manon Wolfe, notary at Montréal, Province of Québec.

CAME AND APPEARED:

9175-2246 QUÉBEC INC., a corporation having its head office at 8550 Pie-IX Boulevard, Suite 250, Montréal, Province of Québec, incorporated under the laws of Québec, hereinacting and represented by Bertrand P. Ménard, its authorized representative, hereunto duly authorized by a resolution of its Board of Directors dated March 24, 2011, a certified copy whereof remains hereunto annexed after having been acknowledged as true and signed for identification by the said representatives with the undersigned notary, hereinafter called the "Bare Owner".

AND:

SYSCOR, a corporation having its head office at 6600 Côte des Neiges, Suite 225, Montréal, Province of Québec, incorporated under the laws of Québec, hereinacting and represented by Jean Lamothe, its authorized representative, hereunto duly authorized by a power of attorney dated March 24, 2011 and a certified extract of the minutes of a meeting of the board of directors dated March 24, 2011, a copy whereof remains hereunto annexed after having been acknowledged as true and signed for identification by the said representatives with the undersigned notary, hereinafter called the "Emphyteutic Lessee".

WHEREAS the Emphyteutic Lessee and the Bare Owner wish to enter into the present Emphyteusis of the Immovable, on the terms and conditions hereinafter set forth.

NOW THEREFORE THE PARTIES HERETO HAVE AGREED AS FOLLOWS:

ARTICLE 1 INTERPRETATION

- 1.1 The following words and phrases wherever used in this Deed shall, unless there be something in the context inconsistent therewith, have the following meanings:
- 1.1.1 "Affiliates" or "Affiliate" means an affiliate, as defined in the Canada Business Corporations Act.
 - 1.1.2 "Bankruptcy Proceeding" means a petition, an involuntary proceeding, case or proposal under any bankruptcy, insolvency, debt restructuring, reorganization, incorporation, dissolution, liquidation,

winding up or similar law now or hereinafter in effect, seeking the liquidation, reorganization, dissolution, winding up of the Bare Owner or any subsequent owner of the Immovable, the appointment of a trustee, receiver, receiver and manager, custodian, liquidator, administrator or the like for the Bare Owner or any subsequent owner of the Immovable or all or any material part of the Bare Owner's assets or that of any subsequent owner of the Immovable (including without limitation proceedings under the *Bankruptcy and Insolvency Act*, the *Winding up and Restructuring Act*, the *Companies' Creditors' Arrangement Act*, the corporate statute under which the Bare Owner or any subsequent owner of the Immovable is organized or other similar legislation).

- 1.1.3 "Bare Owner's Interest" means all of the Bare Owner's right, title and interest (i) under this Emphyteusis, (ii) in the Development, and (iii) in the Option Hypothec, Option Agreement and the Deposit, if applicable.
- 1.1.4 "Business Day" means any day of any week except Saturdays, Sundays and statutory holidays observed in the Province of Québec.
- 1.1.5 "Change of Control" means and shall be deemed to have occurred if any person other than any person or any person controlled by any of the individuals identified in Schedule C, after having been acknowledged true and signed for identification by the parties hereto with the undersigned Notary, hereof shall at any time own, in the aggregate, directly or indirectly, a majority of the issued and outstanding capital stock of the Bare Owner.
- 1.1.6 "Completion Date" shall have the meaning set forth in Article 4 hereof.
- 1.1.7 "Consideration" means the annual consideration payable under Article 5.
- 1.1.8 "Construction Contract" means the construction contract dated March 13, 2009 among the Bare Owner and Pomerleau Inc., as assigned to Syscor on even date herewith, and as amended and restated by a cost plus construction contract dated of even date herewith among Syscor and Pomerleau Inc.
- 1.1.9 "Construction Management Agreement" means the agreement entitled *Contrat de service* dated March 22, 2011 among Syscor II and Groupe Mach Inc. whereby Groupe Mach Inc. is providing construction management services in connection with the Improvements, as same may be amended, restated or modified from time to time.
- 1.1.10 "Construction Schedule" means the Construction Schedule for the construction of the Improvements, a copy of which is attached hereto as Schedule "A", after having been acknowledged true and signed for identification by the parties hereto with the undersigned Notary, as

same may be amended from time to time by consent of the parties hereto.

- 1.1.11 **"Consumer Price Index"** means the Consumer Price Index, All items, for Montréal, published by Statistics Canada or a successor publisher or, in the absence thereof, any equivalent index.
- 1.1.12 **"Deposit"** shall have the meaning set forth in Article 5 hereof.
- 1.1.13 **"Development"** means the Existing Improvements, the Immovable and, from and after the date hereof, with all the Improvements to be made thereto.
- 1.1.14 **"Encumbrance"** means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, royalty agreement, security interest of any nature, adverse claim, exception, reservation, easement, encroachment, servitude, restriction on use, right of occupation, any matter capable of registration against title, option, right of first offer or refusal or similar right, right of pre-emption or privilege or any deed, document or contract to create any of the foregoing.
- 1.1.15 **"Emphyteusis", "this Deed", "these presents", "herein", "hereby" "hereunder"** and similar expressions refer to this Emphyteusis.
- 1.1.16 **"Emphyteutic Lessee's Hypothecary Creditor"** refers to each person:
- 1.1.16.1 holding a conventional hypothec on all or part of the Emphyteutic Lessee's Interest, or
- 1.1.16.2 acting as trustee or trustees for the holder or holders of any issue of bonds secured by a trust deed of hypothec, mortgage and pledge on all or part of the Emphyteutic Lessee's Interest.
- 1.1.17 **"Emphyteutic Lessee's Interest"** means all of the Emphyteutic Lessee's right, title and interest (i) under this Emphyteusis, (ii) in the Development, and (iii) in the Option Hypothec, Option Agreement and the Deposit, if applicable.
- 1.1.18 **"Environment"** means soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air, and any combination of any of them, living species and any natural system with which living species interact.
- 1.1.19 **"Environmental Condition"** means any condition involving or resulting from the presence of Regulated Materials in the Environment (whether or not yet discovered), which is reasonably likely to or does result in any loss to or against the Emphyteutic Lessee or the Bare Owner (including claims or requests by any third party or any Governmental Authority, and including any condition resulting from any activity or operation formerly conducted by any Person in connection with the Immovable).

- 1.1.20 "Environmental Laws" means all applicable laws, regulations, by-law, code, policies or guidelines relating, in whole or in part, to the Environment or the protection of the Environment, or the manufacture, processing, distribution, sale, use, treatment, storage, disposal, removal, recovery, discharge, destruction, packaging, labeling, transport or handling of any pollutants, contaminants, chemicals, dangerous, toxic or hazardous substances or materials, waste or Regulated Materials, including the *Politique de protection des sols et de réhabilitation des terrains contaminés* (Québec).
- 1.1.21 "Existing Improvements" means all of the buildings, structures and other improvements, or portions thereof, constructed on, under or above the Immovable at the commencement date of the Term.
- 1.1.22 "Facility Letter" means that certain facility letter issued by HSBC Bank Canada on November 9, 2010 and accepted by, *inter alios*, the Emphyteutic Lessee on November 15, 2010, as amended by an amending letter dated March 24, 2011, pursuant to which credit facilities were extended to the Emphyteutic Lessee, as same may be further amended thereafter from time to time.
- 1.1.23 "Governmental Approval" means any authorization, consent, certificate, registration, approval, license, ruling, permit, exemption, variance, order, judgment, decree, declarations of or regulation set forth by or required from any Governmental Authority under any applicable laws.
- 1.1.24 "Hazardous Materials" means (a) petroleum or chemical products, whether in liquid, solid, or gaseous form, or any fraction or by-product thereof, (b) asbestos or asbestos-containing materials, (c) polychlorinated biphenyls (-PCBs), (d) radon gas, (e) underground storage tanks, (f) any explosive or radioactive substances, (g) lead or lead based paint, or (h) any other substance, material, waste or mixture which is or shall be listed, defined, or otherwise determined by any governmental authority to be hazardous, toxic, dangerous or otherwise regulated, controlled or giving rise to liability under any Environmental Laws.
- 1.1.25 "Improvements" means all additions, construction work, plantations and other improvements to be made on the Immovable and the Existing Improvements in accordance with the Plans and Specifications which will durably and materially increase the value thereof.
- 1.1.26 "Immovable" means the land situated in the City of Montréal and forming part of the Official cadastre for the City of Montréal, Registration Division of Montréal, more fully described as follows:

That certain emplacement fronting on Cedar Avenue, in the City of Montreal, Province of Quebec, known and designated as being lot number FOUR MILLION TWENTY-SIX THOUSAND EIGHT

HUNDRED AND FIFTY-SEVEN (4 026 857) of the Cadastre du Québec, registration division of Montréal.

Together with the building thereon erected bearing civic number 1724 and 1750 Cedar Avenue, in the City of Montreal, Province of Quebec, H3G 1A3.

Together with the multi-level parking lot thereon erected.

As the said property now subsists, together with all its rights, members and appurtenances, servitudes active or passive, apparent or occult, thereto attached, without exception or reserve, together with all constructions and works of a permanent nature now or hereafter located thereon and forming an integral part thereof and with all buildings now or hereafter thereon erected, and together with all heating systems, lighting fixtures, refrigerators, stoves, washing machines and dryers, which may be owned by the Bare Owner and shall be provided in an "as is" "where is" condition, the whole without exception or reserve of any kind on the part of the Bare Owner.

1.1.27 "Knowledge" means the knowledge of the officers of the Emphyteutic Sub-Lessee and its Affiliates dealing directly with the Immovable after reasonable enquiry.

1.1.28 "Loan Document" means any and all agreements, contracts, deeds, letters or instruments to be executed and delivered by the Bare Owner in connection with the Development, its financing and construction, including without limitation, the Facility Letter, the Material Contracts (as such term is defined in the Facility Letter), the Security Documents (as such term is defined in the Facility Letter), and any other security, guarantee or document required to be delivered by the Bare Owner in relation thereto.

1.1.29 "Permitted Encumbrances" means:

- (i) any leases, servitudes or operating agreements affecting the Immovable, provided that:
 - (a) the consideration to the Emphyteutic Lessee thereunder is fully stated therein; and
 - (b) such consideration advances or benefits the development of the Immovable or the Improvements or the operation thereof; and
 - (c) such consideration is not less than the fair market value of the rights in question granted by the Emphyteutic Lessee thereunder at the time of each such grant; and
 - (d) no such lease, servitude or operating agreement shall create any hypothec (legal or conventional), prior claim or other

right as such may rank prior to or *pari passu* with the rights of the Emphyteutic Lessee's Hypothecary Creditor; and

- (e) a copy of any and all such Leases, servitudes and operating agreements have been provided to the Emphyteutic Lessee;
 - (ii) the deed of hypothec dated March 24, 2011 granted by the Emphyteutic Lessee and the Emphyteutic Sub-Lessee in favour of Pomerleau Inc., before Mtre. Manon Wolfe;
 - (iii) this Emphyteusis;
 - (iv) the Servitude;
 - (v) the deed of hypothec dated March 24, 2011 granted by the Emphyteutic Lessee in favour of HSBC Bank Canada, before Mtre. Manon Wolfe;
 - (vi) the deed of hypothec dated March 24, 2011 granted by Syscor II in favour of HSBC Bank Canada, before Mtre. Manon Wolfe;
 - (vii) the deed of hypothec dated March 24, 2011 granted by the Bare Owner in favour of HSBC Bank Canada, before Mtre. Manon Wolfe;
 - (viii) the deed of hypothec dated December 22, 2006 granted by 9175-2188 Quebec Inc. in favour of HSBC Bank Canada and registered under number 13 921 443, which shall be discharged before the Deposit is remitted in full as provided hereunder;
 - (ix) the deed of hypothec dated March 21, 2011 granted by the Bare Owner in favour of HSBC Bank Canada and registered under number 17 983 290, which shall be discharged before the Deposit is remitted in full as provided hereunder;
 - (x) any defects or Encumbrances presently affecting title to the Immovable and fully disclosed to the Emphyteutic Lessee; and
 - (xi) any Encumbrances on title which originate subsequent to the date hereof and which are attributable to an act or omission on the part of the Bare Owner, provided same shall not permit the Bare Owner to create any Encumbrance on title in breach of the Bare Owner's obligations hereunder.
- 1.1.30 "Option Agreement" means that certain agreement entered into on the date hereof, by the Bare Owner, as grantor, in favor of the Emphyteutic Lessee whereby the Bare Owner grants the Emphyteutic Lessee an option to purchase the Development.
- 1.1.31 "Option Hypothec" means that certain immovable hypothec entered into on the date hereof, by the Bare Owner, as grantor, in favour of the Emphyteutic Lessee, as a security for, inter alia, (i) the option to purchase the Immovable and the Improvements granted by the Bare

Owner to the Emphyteutic Lessee pursuant to the Option Agreement and (ii) the representations, warranties and covenants made in this Deed by the Bare Owner in favour of the Emphyteutic Lessee.

- 1.1.32 "Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization or any other form of entity.
- 1.1.33 "Plans and Specifications" means the plans and specifications relating to the Improvements and referred to in the Construction Management Agreement as same may be amended from time to time by consent of the parties hereto.
- 1.1.34 "Prime Rate" means the prime rates of the Royal Bank of Canada in effect on the first day of each month during the Term. For greater certainty, the "prime rate" of any such bank shall mean the prime lending rate of interest, expressed as a rate per annum, which such bank establishes as a reference rate of interest in order to determine the interest rate that it will charge on any particular day for loans in Canada in Canadian dollars to its commercial borrowers.
- 1.1.35 "Regulated Materials" means any chemical, substance, particule, solid, gas, liquid, material or waste which is now or becomes listed, defined or regulated in any manner by Environmental Laws, including asbestos, PCB's, natural gas, greenhouse gas, and petroleum or petroleum containing substances.
- 1.1.36 "Regulatory Approval" means all consents, permits, authorizations and any other approvals which may be required from time to time from any authority having jurisdiction over any aspect of the matters contemplated herein, such approvals to include, without limitation, a by-law of the City of Montréal permitting the construction of the Development.
- 1.1.37 "Release" means any release, spill, leak, discharge, disposal, pumping, pouring, emission, emptying, injection, leaching, dumping, deposit, escape or migration into the Environment.
- 1.1.38 "Servitude" means the servitude of tolerance of encroachment and of right of passage published on March 18, 2011, under number 17 978 937 against the Immovable and lot 1 064 064.
- 1.1.39 "Term" means the term set forth in Article 4 hereof.
- 1.1.40 "Transfer" shall have the meaning ascribed thereto in Section 9.1.
- 1.1.41 "Unavoidable Delay" means any delay in the performance by any party hereto of its obligations hereunder caused in whole or in part by any force majeure, acts of God, strikes, lockouts or other industrial disturbances, sabotage, war, blockades, insurrections, riots, civil disturbances, breakage of or accident to machinery, inability to

obtain materials or equipment, extreme weather conditions, fire, explosion, earthquake, any legislative or administrative action, any judicial action which has been resisted in good faith by all reasonable legal means, any act, omission or event whether of the kind herein enumerated or otherwise not within the reasonable control of a party, and which by the exercise of due diligence the party could not have prevented, but lack of funds on the part of a party shall not constitute an Unavoidable Delay.

- 1.2 Grammatical variations of any terms defined herein have corresponding meanings; words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and the neuter genders and words importing persons shall include firms, associations and corporations and vice versa.
- 1.3 The headings herein have been inserted for convenience of reference only and shall not affect the construction or interpretation of this Deed.
- 1.4 Where reference is herein made to an Article hereof, such reference shall include all subdivisions of such Article; and where reference is herein made to a Section hereof, such reference shall include all subdivisions of such Section.
- 1.5 This Emphyteusis is to be governed by and construed in all respects and enforced in accordance with the laws of the Province of Québec and the laws of Canada applicable thereto, and shall be treated in all respects as a Québec contract.
- 1.6 If the date upon which something is required to be done hereunder or upon which a delay expires hereunder should fall on a day which is not a Business Day, such date shall be postponed to the next following Business Day.
- 1.7 If the rights of the Emphyteutic Lessee are, at any time, owned by more than one person, all persons holding rights of the Emphyteutic Lessee, shall be bound solidarily for all obligations of the Emphyteutic Lessee toward the Bare Owner hereunder.
- 1.8 Whenever it is provided herein that a party hereto or its experts must give their consent or must do something, each such party or expert shall act reasonably, diligently and in good faith.

ARTICLE 2 CONVEYANCE

- 2.1 The Bare Owner does hereby convey the Immovable by way of emphyteusis to the Emphyteutic Lessee with good and marketable title, free and clear of all Encumbrances of any nature whatsoever, subject only to Permitted Encumbrances and with legal warranty and

the Emphyteutic Lessee does hereby accept such conveyance from the Bare Owner.

- 2.2 It is the express intent of the parties hereto that the present Deed be an emphyteusis; should any provision hereof be declared by a final judgment of a competent Court to be inconsistent with the notion of emphyteusis as stipulated by the *Civil Code of Québec*, as the same may be amended or replaced from time to time, or otherwise declared null or unenforceable, said provision shall be deemed not to have been written and shall not apply and, the parties shall forthwith enter into such other agreement or agreements as their respective legal counsel may deem appropriate in order to replace, in an alternate legal form, such null, inconsistent or unenforceable provisions.
- 2.3 The Bare Owner declares to the Emphyteutic Lessee that it has supplied the latter with photocopies of all title deeds and certificates of search relating to the Immovable and the Emphyteutic Lessee acknowledges that the Bare Owner shall not be obliged to supply the Emphyteutic Lessee with any other copies of title deeds or certificates of search relating to the Immovable than those already furnished. Furthermore, the Bare Owner shall not be responsible for the cost of any survey of the Immovable, or for a subdivision plan, soil tests or municipal utility permits for the Immovable.
- 2.4 The Emphyteutic Lessee hereby declares that it has examined the Immovable and is content and satisfied therewith, and the Bare Owner has exempted the Emphyteutic Lessee from drawing up a statement of the Immovable pursuant to Article 1201 of the *Civil Code of Québec*.

ARTICLE 3 IMPROVEMENTS

- 3.1 The Emphyteutic Lessee shall construct Improvements on the Immovable, the whole substantially in accordance with the Plans and Specifications and use its commercially reasonable efforts to substantially complete same within the time period set forth in the Construction Schedule as same may be amended from time to time by the parties acting reasonably and in conformity with all laws, by-laws, regulations, zoning by-laws, orders of a Governmental Authority; the Emphyteutic Lessee shall obtain and pay for all permits required for the Improvements.
- 3.2 The Emphyteutic Lessee undertakes to engage Bare Owner or an Affiliate of Bare Owner (at the discretion of Bare Owner) to oversee the work required for the Improvements and Bare Owner undertakes to use its best skill and attention to itself or have its affiliate manage and coordinate the construction of the Improvements in accordance with the Plans and Specifications and the Construction Schedule with contractors specifically chosen by Emphyteutic Lessee and retained by Bare Owner, the whole as more fully set out in the Construction Management Agreement to be entered into by and between the Bare

Owner and the Emphyteutic Lessee and or Syscor II. It is expressly acknowledged and agreed that all contracts to be entered into by the Bare Owner in connection with the construction of the Improvements shall be on terms and conditions approved by the Emphyteutic Lessee acting reasonably.

- 3.3 Once having commenced the construction of the Improvements, the Emphyteutic Lessee shall proceed therewith and complete same with reasonable diligence and without unreasonable delay.
- 3.4 The Emphyteutic Lessee shall obtain and pay for all permits required for the construction of the Improvements and shall construct the Improvements in accordance with all applicable municipal, provincial and federal laws, by-laws and regulations.

ARTICLE 4 TERM

- 4.1 The present assignment in emphyteusis is granted for a term (the "Term") extending from the date hereof to a date which is thirty-nine (39) years from the date on which the Improvements are substantially completed and ready for use by Emphyteutic Lessee for its intended purposes and "*Achèvement substantiel de l'ouvrage*", as defined in the Construction Contract, has been achieved (the "Completion Date").
- 4.2 The Emphyteutic Lessee hereby renounces any abandonment of its right during the term of the assignment in emphyteusis hereinabove provided, the whole as contemplated by article 1211 of the *Civil Code of Québec*.

ARTICLE 5 CONSIDERATION

- 5.1 The present assignment in emphyteusis has been granted for the consideration described under Schedule "B" hereof.

ARTICLE 6 PAYMENT OF TAXES AND ASSESSMENTS

- 6.1 The Emphyteutic Lessee binds and obliges itself during the Term to pay and discharge or to cause to be paid and discharged all assessments, taxes, transfer, duties, rates, insurance, and other charges, whether general or special in nature, imposed, levied, assessed or charged by federal, provincial, municipal, school or other authority, on or in respect of the Development and the equipment and fixtures therein including any and all federal and provincial goods and services taxes and all taxes which may be at any time imposed or assessed in addition thereto or in replacement thereof or in substitution therefor, any and all local improvement rates and taxes, and including its proportionate part of such taxes, assessments, rates and charges for the taxation years current at the date of commencement of this Emphyteusis and at the date of its termination,

on the date when such assessments, taxes, rates, fees and other charges respectively become due. This obligation shall extend to the payment of any instalments of special assessments falling due during the Term, payment of which special assessments is permitted to be made by instalments during a number of years and all interest on such special assessments.

- 6.2 The Emphyteutic Lessee shall, upon written request by the Bare Owner, forthwith exhibit to the Bare Owner and to such other persons as may be designated in writing by the Bare Owner from time to time, the receipts establishing payment of any and all sums payable by the Emphyteutic Lessee pursuant to Section 6.1 or, if the Bare Owner is required to make such payment, the Emphyteutic Lessee shall forthwith reimburse to the Bare Owner the amount so paid by the Bare Owner, the whole without prejudice to the Bare Owner's rights under Article 10 hereof.

ARTICLE 7 INSURANCE

- 7.1 The Emphyteutic Lessee undertakes and obliges itself to obtain at its own expense and maintain during the Term, in a form and with insurance companies selected by the Emphyteutic Lessee and approved by the Bare Owner acting reasonably, the following insurance:
- 7.1.1 an All Risks physical builders risks course of construction insurance with policy limit of not less than the full replacement value or repair costs of all Improvements, covering all contractors and subcontractors (including materials on or off site). Such policy shall contain a waiver of subrogation in favour of all insureds and a loss payable clause as each insured's interest may appear;
- 7.1.2 a Wrap-Up liability insurance covering the cost of construction with a policy limit of not less than ten million dollars (\$10,000,000.00) covering all contractors, subcontractors, architects and engineers with a cross liability endorsement and a twelve-month completed operations endorsement; such policy shall contain evidence of contractual liability coverage;
- 7.1.3 following completion of construction of the Improvements, an All Risks of physical loss or damage insurance, including earthquake and flood, covering the Improvements, fixtures, moveable effects, now or hereinafter in, attached to or used in connection with the Improvements with policy limit not less than the full replacement value or repair costs of all Improvements; such policy shall also cover business interruption in the form of gross profits for a period of twelve (12) months, and shall contain a waiver of subrogation in favour of the Bare Owner;
- 7.1.4 a Broad Form Boiler and Machinery insurance covering all electrical, mechanical, ventilation and pressure vessels; such policy shall also

cover business interruption in the form of gross profits for a period of twelve (12) months, and shall contain a waiver of subrogation in favour of the Bare Owner:

- 7.1.5 a Comprehensive General Liability insurance with policy limit of not less than one million dollars (\$1,000,000) inclusive for bodily injury and property damage; such policy shall extend by its working or endorsement to cover all the liabilities assumed by the Emphyteutic Lessee under provisions of this Emphyteusis, and shall contain a cross liability clause.
- 7.2 The Emphyteutic Lessee shall deliver or cause to be delivered to the Bare Owner throughout the Term, satisfactory evidence in the form of certificates of insurance showing that each such insurance policy is in full force and effect and shows the Bare Owner as an additional insured, to the extent of its interest, together with certificates evidencing renewal.
- 7.3 Each of the aforesaid insurance policies shall contain an endorsement providing that no cancellation thereof shall be made unless a prior notice of at least sixty (60) days of such cancellation has been delivered to the Bare Owner and each of the Emphyteutic Lessee's Hypothecary Creditors, if any.
- 7.4 Nothing herein contained shall be construed as making the Bare Owner responsible for any of the risks to be insured against and the Emphyteutic Lessee agrees to indemnify and save harmless the Bare Owner in respect of all claims for bodily injury or death, property damage or other loss or damage arising from the conduct of any work by or any act or omission of the Emphyteutic Lessee or any assignee, agent, employee, contractor or licensee of the Emphyteutic Lessee but not including the Bare Owner or its assignees, agents, employees, contractors or licensees.
- 7.5 The Emphyteutic Lessee shall supply the Bare Owner no later than the date of expiry of an insurance policy with proof of the payment of the renewal premium and shall deliver or cause to be delivered to the Bare Owner, no later than seven (7) days after the date of expiry of an insurance policy, written confirmation by the insurer or its agent that renewal of such policy has been effected and receipts of the insurer or its agent establishing the payment of such renewal premium.
- 7.6 Should the Emphyteutic Lessee fail to keep in force the policies of insurance during the Term, or to supply to the Bare Owner the documents referred to in Section 7.5 hereof in accordance with the terms of the said Section 7.5, the Bare Owner shall have the right, forthwith, to effect such insurance with one (1) or more insurance companies of its choice, at the expense of the Emphyteutic Lessee and to add the cost thereof together with interest thereon from the date of failure to make payment to the date of payment at the rate of three percent (3%) above the Prime Rate to the next Consideration payment

due hereunder by the Emphyteutic Lessee to the Bare Owner without prejudice to any other rights and recourses of the Bare Owner herein or by law provided.

- 7.7 Subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors with respect to insurance matters, the Emphyteutic Lessee shall have the losses and proceeds under the policies of insurance on the Development referred to in Sections 7.1.1, 7.1.2, 7.1.3 and 7.1.4 made payable jointly to the Bare Owner, the Emphyteutic Lessee and the Emphyteutic Lessee's Hypothecary Creditors, if any, as their respective interests may appear, to be used exclusively for the reconstruction or repair of the Improvements in accordance with the provisions of Article 8 hereof, and the Bare Owner covenants to endorse any and all cheques representing proceeds of insurance in order that proceeds be used in accordance with the provisions of any security documentation in favour of the Emphyteutic Lessee's Hypothecary Creditors and the provisions hereof.
- 7.8 Any insurance coverage maintained by the Emphyteutic Lessee under this Article 7 shall in no manner restrict or limit the liabilities assumed by the Emphyteutic Lessee under this Emphyteutic Lease.

ARTICLE 8 DESTRUCTION OR DAMAGE

- 8.1 Should the Improvements be partially destroyed or damaged but not to the extent of making the remainder of same unusable for the purpose for which they were originally constructed, this Emphyteusis shall remain in full force and effect and subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors with respect to insurance proceeds, the proceeds of any insurance shall be deposited in a joint bank account of a Canadian chartered bank selected by the Emphyteutic Lessee and approved by the Bare Owner acting reasonably, in the name of the Bare Owner, the Emphyteutic Lessee and the Emphyteutic Lessee's Hypothecary Creditors, if any, to be made available to the Emphyteutic Lessee for the sole purpose of repairing the Improvements, the Emphyteutic Lessee being obliged however to repair the Improvements whether insurance proceeds are sufficient or not.
- 8.2 Should the Improvements be totally destroyed or partially destroyed or damaged to the extent of making the remainder of same unusable for the purpose for which they were originally constructed, this Emphyteusis shall, subject to the provisions of Sections 8.12 and 8.13 hereof, remain in full force and effect and subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors with respect to insurance proceeds, the proceeds of any insurance shall be deposited in a joint bank account of a Canadian chartered bank selected by the Emphyteutic Lessee and approved by the Bare Owner acting reasonably, in the name of the Bare Owner, the Emphyteutic Lessee and the Emphyteutic Lessee's Hypothecary Creditors, if any, to be

made available to the Emphyteutic Lessee for the sole purpose of reconstructing, repairing and replacing the Improvements, the Emphyteutic Lessee being obliged however to reconstruct, repair and replace the Improvements whether insurance proceeds are sufficient or not, the whole in accordance with the provisions hereinafter contained.

- 8.3 Notwithstanding Sections 8.1 and 8.2 above and subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors with respect to insurance proceeds, the Emphyteutic Lessee may invest the amount of such insurance proceeds in term deposits with such Canadian chartered bank, and the Emphyteutic Lessee alone shall determine the term of such investments. All interest on such proceeds will be disbursed in the manner set forth for the insurance proceeds in this Article 8.
- 8.4 The Emphyteutic Lessee shall cause the Improvements to be reconstructed, repaired or replaced as nearly as reasonably possible to at least the same size and to the same condition and to the same quality of construction as those existing immediately prior to the destruction or damage, all such work to be carried out in accordance with prevailing construction standards. The Emphyteutic Lessee shall commence the reconstruction, repair or replacement of the Improvements within a delay of either nine (9) months from the date of the destruction or damage or ninety (90) days after having obtained the insurance proceeds and the construction permit authorizing the Emphyteutic Lessee to proceed with the reconstruction, repair or replacement of the Improvements, whichever comes last (subject however to a maximum delay of twelve (12) months from the date of destruction or damage), and shall proceed as expeditiously as possible thereafter until completion of same.
- 8.5 Prior to undertaking such reconstruction, repair or replacement of the Improvements which were originally constructed, the Emphyteutic Lessee shall, subject to the provisions of Sections 8.12 and 8.13 and subject also to the then existing by-laws and regulations of the City of Montréal or successor municipal government, supply to the Bare Owner, within six (6) months from the date of destruction, proper architectural and engineering plans and specifications and the estimated cost of such reconstruction, repair, replacement or construction, and either construction contracts or construction management contracts with bonded contractors for at least forty percent (40%) of the value of such contracts for labour and materials and performance and completion of the work. The Bare Owner shall have the right to approve the plans and specifications and the estimate to the extent that they must comply with the quality and cost standards set forth more fully in Section 8.2 hereof. The said plans and specifications and, if applicable, the estimate referred to in the two preceding sentences are hereinafter collectively referred to in this Article 8 as the "Relevant Plans and Specifications". If the Relevant Plans and Specifications and contracts indicate that the Improvements

will be reconstructed, repaired and replaced, all in accordance with the provisions of Section 8.4, the Bare Owner's approval shall not be unreasonably withheld and shall be given within sixty (60) days from the date of submission thereof. If the Bare Owner does not approve the Relevant Plans and Specifications within said sixty (60) day-delay, it shall give reasons for its refusal and details therefor, together with the specific changes reasonably requested to be made to the Relevant Plans and Specifications, in which event the Emphyteutic Lessee shall re-design the Relevant Plans and Specifications and submit new Relevant Plans and Specifications for the Bare Owner's approval within four (4) months of the date of refusal by the Bare Owner of the first Relevant Plans and Specifications. If the Bare Owner's approval is not given to the Emphyteutic Lessee's new Relevant Plans and Specifications in writing within sixty (60) days from the receipt of such new Relevant Plans and Specifications, then the matter shall be referred to arbitration in the manner provided for in Article 14 hereof, in which event the delays mentioned in Section 8.4 shall be extended by a period equal to (i) the time between the submission to arbitration and the time of the arbitration award and (ii) the time necessary for the Emphyteutic Lessee to modify the new Relevant Plans and Specifications to comply with the arbitration award, which time shall not exceed six (6) months after the time of the arbitration award.

- 8.6 Any variation of a material nature from the Relevant Plans and Specifications so approved by the Bare Owner in the reconstruction, repair or replacement of the Improvements shall require a new approval on the part of the Bare Owner and the provisions of Section 8.5 shall apply *mutatis mutandis*.
- 8.7 Subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors, the Bare Owner and the Emphyteutic Lessee's Hypothecary Creditors, if any, shall, upon request, authorize the payment from the said joint bank account of insurance proceeds to the Emphyteutic Lessee from time to time as the reconstruction, repair or replacement of the Improvements in amounts equal to the extent of expenditures made for such reconstruction, repair or replacement of the Improvements, as set forth in the progress certificates of the work issued from time to time by the Emphyteutic Lessee's superintending architect or project manager less, however, a sum equal to the amount of the holdbacks specified in the contracts for such reconstruction, repair or replacement of the Improvements.
- 8.8 Prior to each disbursement, the Emphyteutic Lessee shall establish by a certificate of the superintending architect or the project manager that the balance of insurance proceeds is sufficient to cover all remaining costs and expenses of reconstruction, repair, replacement or construction, as the case may be, and, if not, the Emphyteutic Lessee shall forthwith invest in the reconstruction, repair, replacement or construction an amount equal to the shortfall.

- 8.9 The Emphyteutic Lessee shall obtain new insurance on the Improvements during the period of their reconstruction, repair and replacement, as the case may be, and for the remainder of the Term, and the provisions of Article 7 shall apply with regard to such new insurance and likewise in the same manner each time a loss occurs giving rise to a claim under any insurance policy.
- 8.10 If any privilege or legal hypothec shall have been registered against the Immovable for work done or materials supplied or by other persons engaged in connection with the reconstruction, repair or replacement of the Improvements, the Bare Owner may require that there be held back from the monies to be paid to the Emphyteutic Lessee from said joint bank account an amount sufficient to satisfy the claim secured by such privilege or legal hypothec plus legal costs and interest; provided, however, that if the Emphyteutic Lessee shall in good faith and by appropriate proceedings, contest the validity or amount of any such privilege or legal hypothec and, if required by the Bare Owner or any of the Emphyteutic Lessee's Hypothecary Creditors, give security satisfactory to the Bare Owner and any such Emphyteutic Lessee's Hypothecary Creditors, without duplication, for the due payment of any such privilege or legal hypothec, plus legal costs and interest, in case it shall be held to be valid, the Emphyteutic Lessee shall be entitled to receive the entirety of the insurance proceeds in accordance with the provisions of this Article 8.
- 8.11 Should the insurance proceeds exceed the cost of reconstruction, repair or replacement of the Improvements, the Bare Owner, subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors, if any, shall authorize payment of the amount of such excess to the Emphyteutic Lessee thirty (30) days after the completion of the work of reconstruction, repair or replacement of the Improvements.
- 8.12 Should the Improvements be totally destroyed or partially destroyed or damaged to the extent of making the remainder of same unusable for the purpose for which they were originally constructed, and if the Emphyteutic Lessee shall notwithstanding all due diligence be prevented for a period of three (3) years, subject to extension pursuant to Section 8.5, from proceeding with the reconstruction, repair or replacement of the Improvements as aforesaid by any Unavoidable Delay or otherwise, then each party may, by notice in writing to be given to the other party and to the Emphyteutic Lessee's Hypothecary Creditors, if any, (which notice shall specify which of such causes prevented the reconstruction, repair or replacement of the Improvements) terminate this Emphyteusis and the obligations hereunder of both parties hereto and, in such event, subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors, the proceeds of the insurance payable with respect to such destruction or damage shall be apportioned between the Bare Owner, the Emphyteutic Lessee and the Emphyteutic Lessee's Hypothecary Creditors, if any, in accordance with the provisions of Section 13.1.4 herein and the Emphyteutic Lessee shall at its cost and expense

demolish and remove any remaining Improvements and restore the Immovable thereunder to its original state and condition as at the commencement of the Term, all to the satisfaction of the Bare Owner, acting reasonably. The Emphyteutic Lessee shall not however reconstruct the Existing Improvements.

- 8.13 Notwithstanding anything to the contrary in this Deed, the Emphyteutic Lessee shall not be bound to reconstruct, repair and replace the Development as herein provided if the destruction or damage contemplated in Sections 8.2 and 8.4 takes place during last three years of the Term, provided the Emphyteutic Lessee advises the Bare Owner of its intention to terminate this Emphyteusis within sixty (60) days from the date of such destruction or damage, whereupon this Emphyteusis shall terminate as at the date of such destruction or damage and, in such event, subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors, the proceeds of the insurance payable with respect to such destruction or damage shall be apportioned between the Bare Owner, the Emphyteutic Lessee and the Emphyteutic Lessee's Hypothecary Creditors, if any, in accordance with the provisions of Section 13.1.4 herein and the Emphyteutic Lessee shall at its cost and expense demolish and remove any remaining Improvements and restore the Immovable thereunder to its original state and condition as at the commencement of the Term, all to the satisfaction of the Bare Owner.
- 8.14 Notwithstanding anything to the contrary in this Deed, the Emphyteutic Lessee shall not have the right to terminate this Emphyteusis in the case provided for in Sections 8.12 or 8.13 in any event prior to the Termination Date (as such term is defined in the Facility Letter).
- 8.15 Except for the Facility Letter and any document delivered pursuant thereto, any trust deed, deed of loan or other instrument evidencing obligations secured by the Development shall be made to contain a clause or clauses authorizing that the insurance be taken and the monies payable thereunder be dealt with, used and paid, as provided for in accordance with the provisions of Article 7 and Article 8 hereof.

ARTICLE 9 ASSIGNMENT

- 9.1 Except as hereinafter provided, the Emphyteutic Lessee shall have the right to sell, donate, transfer, assign, exchange or otherwise alienate (collectively, "transfer"), at any time, all or a portion of the Emphyteutic Lessee's Interest and the Bare Owner shall have, at any time after the Facility Letter is completely repaid, the right to transfer all or a portion of the Bare Owner's Interest. Prior to such time, the Bare Owner shall not have the right to transfer all or any portion of the Bare Owner's Interest without the prior written consent of the Emphyteutic Lessee or the Emphyteutic Lessee's Hypothecary Creditors, which consent may not be unreasonably withheld.

Additionally, the Bare Owner shall provide such certificates, documents and further assurances as the Emphyteutic Lessee and Emphyteutic Lessee's Hypothecary Creditors shall reasonably require in connection with any assignment. Notwithstanding the foregoing, a transfer shall not be deemed to occur solely as a result of the death of any natural person or the transfer of any interest to a corporation, partnership, trust or other entity for estate planning purposes.

9.2 If the Emphyteutic Lessee transfers the Emphyteutic Lessee's Interest or any portion thereof, the acquirer shall:

- (i) with effect as of the date of such alienation, assume all or a portion, as the case may be, of the Emphyteutic Lessee's obligations under this Emphyteusis arising from and after the date of such alienation (including the obligation to pay the Consideration, make the Improvements stipulated and deliver the Development at the termination of this Emphyteusis); with the understanding that if only a portion of the Emphyteutic Lessee's obligations are assumed by the acquirer, the Emphyteutic Lessee shall continue to be obligated hereunder for the portion of the obligations not assumed by the acquirer; and
- (ii) undertake to cause its successor under this Emphyteusis to be bound by the provisions of this Section 9.2.

9.3 The Emphyteutic Lessee shall remain jointly and severally or solidarily liable with any acquirer of the Emphyteutic Lessee's Interest (including any Affiliate of the Emphyteutic Lessee) to the Bare Owner for all of the Emphyteutic Lessee's obligations, the Emphyteutic Lessee hereby renouncing to the benefits of division and discussion.

9.4 If the Bare Owner transfers, as hereinabove provided, the acquirer and subsequent acquirers shall:

- (i) with effect as of the date of such alienation, assume all of the Bare Owner's obligations under this Emphyteusis arising from and after the date of such alienation;
- (ii) undertake to cause its successor under this Emphyteusis to be bound by the provisions of this Section 9.4; and
- (iii) the Bare Owner shall remain solidarily liable with any acquirer or subsequent acquirer of the Bare Owner's Interest (including any Affiliate of the Bare Owner) to the Emphyteutic Lessee for all of the Bare Owner's obligations.

ARTICLE 10 DEFAULTS AND REMEDIES IN CASE OF DEFAULT

10.1 Default of Emphyteutic Lessee

- 10.1.1 It is expressly agreed that if the Consideration, taxes and premiums for the insurance herein stipulated, or any part thereof, or any other sum payable by the Emphyteutic Lessee under this Deed which exceeds \$10,000 (including, without limitation, under the obligations of the Emphyteutic Lessee to remit to the Bare Owner the Deposit (as hereinafter defined) or any portion thereof when due), are and remain unpaid for a period of ten (10) Business Days after any of the dates on which the same have become due and payable, or in the case of the breach or non-fulfilment by the Emphyteutic Lessee of any of the other covenants herein contained and if such breach is continuing for a period of thirty (30) Business Days, or in the cases where, by reason of the default of the Emphyteutic Lessee, the Bare Owner is by law entitled to terminate this Emphyteusis, then and in every such case but subject to the cure rights of the Emphyteutic Lessee's Hypothecary Creditors, the Bare Owner, may, at its sole option, give the Emphyteutic Lessee notice in writing of its intention to terminate this Emphyteusis, which notice shall specify the sum or sums of money or the covenants and conditions, the non-payment or the non-fulfilment of which is alleged, and which notice shall be deemed to have been adequately given if sent as provided in Section 20.3 hereof.
- 10.1.2 The Bare Owner shall, at the same time as giving the aforesaid notice to the Emphyteutic Lessee, send to each Emphyteutic Lessee's Hypothecary Creditor who shall have advised the Bare Owner at its address specified in Section 20.3, of its hypothec or charge by registered mail and who shall have registered a notice of its address pursuant to the provisions of Article 3022 of the *Civil Code of Québec*, a duplicate copy of such notice and such duplicate notice shall be deemed to have been adequately given if sent by registered mail and addressed to each such Emphyteutic Lessee's Hypothecary Creditor at the address indicated in such notice of address.
- 10.1.3 Should the Emphyteutic Lessee fail, within a period of twenty (20) days next ensuing after the giving of the notice referred to in Section 10.1.1, to make good the breach or default complained of and to pay all monies and interest overdue and all expenses which the Bare Owner has reasonably incurred by reason of such breach or default, then in that and in every such event, but subject to the cure rights of the Emphyteutic Lessee's Hypothecary Creditors, this Emphyteusis and the Term created herein shall, subject to the provisions of Section 10.1.4, from and after the termination of the said period of twenty (20) days next ensuing after the giving of such notice, and upon the Bare Owner giving to the Emphyteutic Lessee and to the Emphyteutic Lessee's Hypothecary Creditors written notice to that effect, become ended and terminated and all the rights of the Emphyteutic Lessee under this Emphyteusis shall be absolutely forfeited and shall lapse; and the Development shall become and be the absolute property of the Bare Owner, and it shall be lawful for the Bare Owner immediately and without further demand to enter into possession thereof in the same manner as is

provided for at the expiration of the Term and the Emphyteutic Lessee shall be obliged to execute such deed or deeds of acknowledgement of its default and of the termination of this Emphyteusis as the Bare Owner may require.

- 10.14 If, at the time of the expiration of the twenty (20) day period and upon the giving of the notice of termination referred to under Section 10.13 above, there exists a hypothec or hypothecs registered against the Development in favour of any Emphyteutic Lessee's Hypothecary Creditor who has been given notice by the Bare Owner in accordance with Section 10.1.2 and if the Emphyteutic Lessee shall fail within the said twenty (20) day period to remedy the default and to pay to the Bare Owner all the monies and interest overdue and all expenses which the Bare Owner may have reasonably incurred by reason of default, all as hereinabove provided in Section 10.1.3, the Bare Owner shall give further notice to each such Emphyteutic Lessee's Hypothecary Creditor of such default(s) hereunder within thirty (30) days after the expiration of the aforesaid twenty (20) day period and the date of the giving of the notice of termination, calling upon each such Emphyteutic Lessee's Hypothecary Creditor to remedy such default either within a period of five (5) days after the giving of the last mentioned notice if the alleged default relates to the payment of monies and interest and taxes and the insurance provisions contained herein, or within a period of thirty (30) days after the giving of the said last mentioned notice in all other cases of default, and if such Emphyteutic Lessee's Hypothecary Creditor shall remedy such default and pay to the Bare Owner all the monies and interest overdue and all expenses which the Bare Owner may have reasonably incurred by reason of default, and if such Emphyteutic Lessee's Hypothecary Creditor has undertaken in writing to the Bare Owner to avail itself of the provisions of Section 10.1.5 and to assume all of the obligations of the Emphyteutic Lessee herein and become the Emphyteutic Lessee hereunder by taking-in-payment proceedings, or otherwise, such undertaking to be given within the said period of five (5) days or thirty (30) days, as the case may be, such default shall be deemed to be cured; but should no Emphyteutic Lessee's Hypothecary Creditor remedy the Emphyteutic Lessee's default and pay to the Bare Owner all the monies and interest overdue and all expenses which the Bare Owner may have reasonably incurred by reason of default, and give its written undertaking to the Bare Owner as aforesaid, within the said period of five (5) days or thirty (30) days, as the case may be, all of the rights of such Emphyteutic Lessee and of each such Emphyteutic Lessee's Hypothecary Creditor and the latter's interest in the Development shall lapse and shall be absolutely forfeited and the Bare Owner shall have the right to apply to the courts for an order to have such outstanding hypothec or hypothecs cancelled and radiated if such Emphyteutic Lessee's Hypothecary Creditor refuses to execute a release therefrom, the whole subject to the rights of the lender under the Facility Letter, which include a prohibition on termination of this Emphyteusis while the Facility Letter is outstanding and the ability

to assign the Emphyteutic Lessee's Interest to a third party without the consent of the Bare Owner.

- 10.1.5 If the Emphyteutic Lessee's Hypothecary Creditor shall take possession of the Development as emphyteutic lessee under the circumstances contemplated in Section 10.1.4 or otherwise, the Bare Owner agrees to execute, upon demand by such Emphyteutic Lessee's Hypothecary Creditor and at no expense to the Bare Owner, such document or documents as each such Emphyteutic Lessee's Hypothecary Creditor may reasonably require in order to evidence and formally record the substitution of such Emphyteutic Lessee's Hypothecary Creditor for the Emphyteutic Lessee by reason of the Emphyteutic Lessee's default, provided, however, that any such document shall contain a "hold harmless" provision protecting the Bare Owner against third parties in respect thereof.
- 10.1.6 In the event of default of the Emphyteutic Lessee under the terms of this Deed, which default cannot properly be cured by the payment of money or which does not relate to the Emphyteutic Lessee's obligation to keep the Development insured and the existence of such default is contested in good faith by the Emphyteutic Lessee, the Bare Owner shall accept the undertaking of the Emphyteutic Lessee, or of the Emphyteutic Lessee's Hypothecary Creditor, to cure such default, if such undertaking is secured by a cash deposit, the terms and conditions of which to be satisfactory to both parties, or a performance bond of sufficient amount to secure performance until the default is cured or such other security satisfactory to the Bare Owner acting reasonably, and provided such contestation is proceeded with diligently and by the appropriate proceedings, whereupon the twenty (20) day delay referred to in Section 10.1.3 or the thirty (30) day delay referred to in Section 10.1.4, as the case may be, will be extended until a final decision of the courts and provided further that if the undertaking is given by any Emphyteutic Lessee's Hypothecary Creditor and such Emphyteutic Lessee's Hypothecary Creditor is HSBC Bank Canada or one of the six (6) largest Canadian chartered banks or a life insurance company registered to do business in Canada and acceptable to the Bare Owner, no such performance bond shall be required.
- 10.1.7 Notwithstanding anything to the contrary contained in this Section 10.1, no default (other than a default which can be cured by the payment of money or which relates to the Emphyteutic Lessee's obligation to keep the Development insured) shall be deemed to come into effect or continue so long as the Emphyteutic Lessee or the Emphyteutic Lessee's Hypothecary Creditor are prevented from or delayed in diligently complying with the provisions of this Deed by Unavoidable Delay. Notwithstanding anything to the contrary contained in this Section 10.1, if the default (other than a default which can be cured by the payment of money or which relates to the Emphyteutic Lessee's obligation to keep the Development insured) is of a nature which cannot be completely cured within the delays

mentioned in this Section 10.1, no default hereunder shall have occurred if the Emphyteutic Lessee or the Emphyteutic Lessee's Hypothecary Creditor shall have commenced curing the default within the delays mentioned in this Section 10.1 and have diligently proceeded therewith and have completed same within reasonable delay.

- 10.1.8 Notwithstanding the provisions of Section 10.1.4, the Bare Owner agrees that if the Emphyteutic Lessee's default consists in whole or in part of the Emphyteutic Lessee's failure to repair, reconstruct or replace the Improvements, as the case may be, within the delays stipulated in Article 8, the delay afforded to each Emphyteutic Lessee's Hypothecary Creditor to remedy such default shall be extended for such reasonable time as may then be necessary to complete such work, provided such Emphyteutic Lessee's Hypothecary Creditor assumes all the obligations of the Emphyteutic Lessee hereunder in a form satisfactory to the Bare Owner acting reasonably.
- 10.1.9 Notwithstanding anything contained in this Section 10.1, the Bare Owner shall have the absolute and total discretion to exercise its rights hereunder with respect to any Emphyteutic Lessee's Hypothecary Creditor who has been given notice by the Bare Owner in accordance with Section 10.1.2 without regard to the rank of the hypothec and charge in favour of any other Emphyteutic Lessee's Hypothecary Creditor and without regard to any dispute which may arise between the Emphyteutic Lessee's Hypothecary Creditors with respect to the exercise of their rights under this Section 10.1, the whole subject to the rights of the lender under the Facility Letter.
- 10.1.10 Notwithstanding anything contained in this Section 10.1, in the event of any default by the Emphyteutic Lessee in its obligations under this Emphyteusis during the Term which has not been remedied as provided in this Section 10.1, the Bare Owner may, but need not, take such action as is required to cure such default and any amounts expended by the Bare Owner for such purpose shall be paid forthwith by the Emphyteutic Lessee to the Bare Owner with interest thereon at the rate of three per cent (3%) above the Prime Rate from the date of default to the date of payment.
- 10.1.11 If the Emphyteutic Lessee is in material default under any financing agreement between it and the Emphyteutic Lessee's Hypothecary Creditors affecting the Immovable and all ancillary security documents and that such default is not cured within the delays provided therein to cure such default.
- 10.2 Default of Bare Owner
- 10.2.1 If any material representation, warranty, covenant, obligation, confirmation, acknowledgement or certification made by the Bare Owner and contained (i) herein is false, inaccurate, breached or not

fulfilled or performed by the Bare Owner, or (ii) in any Loan Document is false, inaccurate, breached or not fulfilled or performed by the Bare Owner and which gives rise to a default or an event of default under any Loan Document.

- 10.2.2 In the case of the breach or non-fulfilment by the Bare Owner of any of the covenants or obligations herein contained and if such breach is continuing for a period of thirty (30) Business Days, or in the cases where, by reason of the default of the Bare Owner, the Emphyteutic Lessee is by law entitled to terminate this Emphyteusis, then and in every such case, the Emphyteutic Lessee, may, at its sole option, give the Bare Owner notice in writing of its intention to terminate this Emphyteusis, which notice shall specify the covenants, the non-fulfilment of which is alleged, and which notice shall be deemed to have been adequately given if sent as provided in Section 20.3 hereof.
- 10.2.3 Should the Bare Owner fail, within a period of twenty (20) days next ensuing after the giving of the notice referred to in Section 10.2.2, to make good the breach or default complained of and to pay all monies and interest overdue and all expenses which the Emphyteutic Lessee has reasonably incurred by reason of such breach or default, then in that and in every such event, this Emphyteusis and the Term created herein shall, from and after the termination of the said period of twenty (20) days next ensuing after the giving of such notice, become ended and terminated and all the rights of the Bare Owner under this Emphyteusis shall be absolutely forfeited and shall lapse; the Bare Owner shall be obliged to execute such deed or deeds of acknowledgement of its default and of the termination of this Emphyteusis as the Emphyteutic Lessee may require, the whole subject to the rights of the lender under the Facility Letter.
- 10.2.4 In the event of default of the Bare Owner under the terms of this Deed, which default cannot properly be cured by the payment of money and the existence of such default is contested in good faith by the Bare Owner, the Emphyteutic Lessee shall accept the undertaking of the Bare Owner, to cure such default, if such undertaking is secured by a cash deposit, the terms and conditions of which to be satisfactory to both parties, or a performance bond of sufficient amount to secure performance until the default is cured or such other security satisfactory to the Emphyteutic Lessee acting reasonably, and provided such contestation is proceeded with diligently and by the appropriate proceedings, whereupon the twenty (20) day delay referred to in Section 10.2.3, will be extended until a final decision of the courts.
- 10.2.5 Notwithstanding anything to the contrary contained in this Section 10.2, no default shall be deemed to come into effect or continue so long as the Bare Owner is prevented from or delayed in diligently complying with the provisions of this Deed by Unavoidable Delay. Notwithstanding anything to the contrary contained in this Section 10.2, if the default is of a nature which

cannot be completely cured within the delays mentioned in this Section 10.2, no default hereunder shall have occurred if the Bare Owner shall have commenced curing the default within the delays mentioned in this Section 10.2 and have diligently proceeded therewith and have completed same within reasonable delay.

- 10.2.6 Upon the occurrence of a default hereunder which is not cured or curable by the Bare Owner, the Emphyteutic Lessee may, without in any way limiting its rights and recourses under law or its termination rights hereunder, exercise (i) its rights under the Option Agreement and/or (ii) its hypothecary rights and recourses under the Option Hypothec without any notice to the Bare Owner.

ARTICLE 11 INDEMNIFICATION OF EMPHYTEUTIC LESSEE

- 11.1 If, during the Term, the Emphyteutic Lessee is disturbed in its enjoyment of the Immovable or restricted in any other way, it will not be entitled to call upon the Bare Owner to defend or warrant it against such disturbance unless (i) it results from a default of the Bare Owner under Section 10.2 hereof in which event the Emphyteutic Lessee shall have (a) the right to call upon the Bare Owner to defend or warrant it against such disturbance, and (b) the rights and recourses set out in Section 10.2, or (ii) it is caused by proceedings (other than expropriation proceedings) involving the title of the Bare Owner to the Immovable, in which latter event the Emphyteutic Lessee shall, until evicted therefrom, pay the Consideration in the same manner as if such disturbance had not taken place; but, upon the Emphyteutic Lessee's eviction as determined by a final judgment of a court of competent jurisdiction, this Emphyteusis shall terminate without prejudice to the rights and recourses of the Emphyteutic Lessee in such event.

ARTICLE 12 TERMINATION

- 12.1 The Bare Owner may terminate this Emphyteusis for the causes herein provided over and above all other causes provided by law and the right of the Bare Owner to terminate this Emphyteusis shall not be restricted to the case where the Emphyteutic Lessee fails to pay any instalment of Consideration for a period of three (3) years. The Emphyteutic Lessee may terminate this Emphyteusis (i) where the Bare Owner is in default pursuant to Section 10.2 hereof, (ii) in the situations contemplated in Sections 8.13 or 8.14 hereof, or (iii) upon the occurrence of a Bankruptcy Proceeding affecting the Bare Owner. Notwithstanding the provisions of the *Civil Code of Québec*, there shall be no right of abandonment (*déguerpissement*) in favour of the Emphyteutic Lessee.
- 12.2 Except as otherwise specifically herein provided, at the expiration of this Emphyteusis or in the event of its termination for the causes

herein provided or by law, the Emphyteutic Lessee shall surrender the Development to the Bare Owner in good condition, free and clear of all charges and Encumbrances save for Permitted Encumbrances set out in paragraphs (iv), (vii), (viii), (ix) and (x) of the definition of "Permitted Encumbrances" hereof and the Encumbrances to which the Bare Owner provided its consent to, including all Encumbrances granted pursuant to the Facility Letter by the Bare Owner or the Emphyteutic Lessee (notwithstanding Article 1209 of the *Civil Code of Québec*) and, notwithstanding the provisions of the second paragraph of Article 1210 of the *Civil Code of Québec*, the Bare Owner shall thereupon become the owner of the Development and neither the Emphyteutic Lessee, nor any of its successors or assigns, shall be entitled to any compensation whatsoever.

ARTICLE 13 EXPROPRIATION

- 13.1 Should the Development be partially expropriated by any authority having the power to expropriate, the proceeds of compensation for expropriation, subject to the prior rights of the Emphyteutic Lessee's Hypothecary Creditors shall be dealt with as follows:
- 13.1.1 compensation paid in respect of the loss of any Consideration payable or to become payable by the Emphyteutic Lessee to the Bare Owner, shall be paid to the Bare Owner, and in the event that the Bare Owner is so compensated, the obligation of the Emphyteutic Lessee to pay Consideration shall be reduced accordingly;
 - 13.1.2 compensation for the loss of the value of the Immovable shall be paid to the Emphyteutic Lessee subject to the Emphyteutic Lessee giving security satisfactory to the Bare Owner, of a value of not less than the amount so paid to the Emphyteutic Lessee, for the payment to the Bare Owner at the termination of this Emphyteutic Lessee of the amount so paid to the Emphyteutic Lessee;
 - 13.1.3 compensation for the loss of revenue of the Emphyteutic Lessee shall be paid to the Emphyteutic Lessee; and
 - 13.1.4 compensation paid in respect of the Improvements shall firstly be used to pay any third party expenditures necessitated by such expropriation, the balance thereof being paid to the Emphyteutic Lessee subject to the Emphyteutic Lessee giving security satisfactory to the Bare Owner, of a value of not less than the amount so paid to the Emphyteutic Lessee, for the payment to the Bare Owner at the termination of this Emphyteutic Lessee of the amount so paid to the Emphyteutic Lessee.
- 13.2 Should the Development be partially expropriated so as not to render the unexpropriated residue of same unusable for the purpose contemplated herein subject to the rights of the Emphyteutic Lessee's Hypothecary Creditors, the Emphyteutic Lessee shall start to restore the unexpropriated portion thereof within ninety (90) days of the

expropriating party taking possession, using the expropriation awards or part thereof in the same manner as the insurance proceeds and subject to the conditions contained in Article 8 hereof insofar as they are applicable for the purposes of this Section.

- 13.3 Notwithstanding the foregoing, should the Development be totally expropriated or expropriated to such an extent as to render the unexpropriated residue of same unusable for the purpose contemplated herein, the proceeds or compensation for expropriation shall be dealt with as follows: that portion of the expropriation proceeds payable by the expropriating party relating to the value of the Immovable and any other sum owing with respect to the rights of the Bare Owner hereunder shall be paid to the Bare Owner and that portion of the expropriation proceeds payable by the expropriating party relating to the Improvements and the rights of the Emphyteutic Lessee hereunder shall be apportioned between the Bare Owner and the Emphyteutic Lessee in accordance with the provisions set out above in Section 13.1.4.
- 13.4 If the expropriation award does not indicate what portion of the expropriation monies represents the fair market value of the Immovable taken or damages caused to the residue thereof, and what portion represents compensation for or damages to the Improvements, and if the Bare Owner and Emphyteutic Lessee cannot agree to the division of expropriation monies as between Immovable and Improvements, the determination thereof shall be submitted to the decision of arbitrators as set out in Article 14 hereof.

ARTICLE 14 ARBITRATION

- 14.1 Whenever this Deed provides for the determination of any matter by arbitration, same shall be settled as provided in this Article 14.
- 14.2 Arbitration proceedings may be commenced by a party (the "Initiating Party") giving notice to the other party (the "Responding Party"), naming an arbitrator setting forth its submission on the matter and requesting an arbitration thereof. The Responding Party shall, within ten (10) Business Days thereafter, either accept the submission of the Initiating Party and execute same or reject the submission and appoint an arbitrator by written notice to the Initiating Party. The two arbitrators so appointed shall within ten (10) Business Days thereafter select a third arbitrator acceptable to both.
- 14.3 Should the Responding Party fail to appoint an arbitrator within the delay set forth in Section 14.2, an arbitrator shall be appointed on behalf of the Responding Party by a Judge of the Superior Court of the Province of Québec, District of Montréal, on the application of the Initiating Party.
- 14.4 In the event that the two arbitrators shall fail to appoint a third arbitrator within ten (10) Business Days from the date of appointment

of the last one so appointed, a third arbitrator shall be appointed by a Judge of the Superior Court for the Province of Québec in the District of Montreal on the application of both or either of the two arbitrators.

- 14.5 The arbitrators shall furnish the Bare Owner and the Emphyteutic Lessee with a written decision within thirty (30) days after the date upon which the third arbitrator has been selected by them or appointed by the Court as provided in Section 14.4.
- 14.6 In the event of the death, resignation, incapacity, neglect or refusal to act of any arbitrator appointed under the provisions of this Article 14, and of such neglect or refusal continuing for a period of seven (7) days after notice thereof in writing has been given by any interested party, another arbitrator shall be appointed to replace such arbitrator by the party whose nominee he was, or by the two arbitrators if he had been appointed as the third arbitrator; and failing the making of such appointment within a further period of seven (7) days, the vacancy shall be filled by a Judge of the Superior Court of the Province of Québec in the District of Montréal on application by either party hereto.
- 14.7 The cost of the arbitration shall be borne by the parties hereto in accordance with the determination in this respect made by the arbitrators as part of their decision.
- 14.8 The award of the arbitrators or a majority of the board of arbitration shall be final and binding upon the parties, which hereby covenant, each with the other, that such dispute shall be so decided by arbitration alone and not by recourse to any court or by action at law other than as provided by the articles of the Code of Civil Procedure of the Province of Québec governing arbitration. The parties shall sign an appropriate submission to arbitration and the arbitrators shall be governed by the provisions of the articles of the Code of Civil Procedure of the Province of Québec governing arbitration.
- 14.9 The Bare Owner and the Emphyteutic Lessee hereby renounce their right to contest the homologation of any decision by the arbitrators under this Article 14 and their right to appeal such homologation.

ARTICLE 15 REPRESENTATIONS AND WARRANTIES

15.1 Representations and Warranties of the Emphyteutic Lessee

The Emphyteutic Lessee does hereby declare and warrant to the Bare Owner that:

- 15.1.1 It is a legal person organized and existing and has full power to execute and deliver this Emphyteusis and to perform its obligations hereunder. The execution, delivery and performance of this Emphyteusis by the Emphyteutic Lessee and the completion of the transactions contemplated hereby have been authorized by all

necessary corporate and other action of the Emphyteutic Lessee, and this Emphyteusis has been executed by the Emphyteutic Lessee and constitutes a valid and binding obligation of the Emphyteutic Lessee enforceable against it in accordance with its terms.

15.2 Representations and Warranties of the Bare Owner

15.2.1 The Bare Owner does hereby declare and warrant to the Emphyteutic Lessee that:

- (a) It is a legal person organized and existing and has full power to execute and deliver this Emphyteusis and to perform its obligations hereunder. The execution, delivery and performance of this Emphyteusis by the Bare Owner and the completion of the transactions contemplated hereby have been authorized by all necessary corporate and other action of the Bare Owner, and this Emphyteusis has been executed by the Bare Owner and constitutes a valid and binding obligation of the Bare Owner enforceable against it in accordance with its terms.
- (b) All of its representations, warranties, acknowledgments, confirmations and certifications contained in any Loan Document are true and correct;
- (c) It is a special purpose vehicle and it never had, does not have, and shall never have, any other operations or activities than that of owning and holding the Immovable.
- (d) It is the absolute and sole owner of the Immovable and its title to the Immovable is good and marketable and free and clear of all Encumbrances of any nature whatsoever except for Permitted Encumbrances.
- (e) Save and except as disclosed prior to the date hereof, to the Emphyteutic Lessee and the Emphyteutic Lessee's Hypothecary Creditors:
 - (i) It does not have any Knowledge of receipt of any notice from any federal, provincial, municipal, community or other authority having jurisdiction over the Immovable and Existing Improvements of any non-compliance of the Immovable and Existing Improvements with any law, regulation, by-law, directive, order or other requirement of such authority relating to environmental matters; and that to the Bare Owner's Knowledge, the Immovable and Existing Improvements complies with such requirements.
 - (ii) All taxes, surtaxes, rates, assessments, duties, levies, imposed or assessed by any taxing authority against the Immovable and Existing Improvements or any

part thereof, if any, have been paid without subrogation for the period ending on the day immediately preceding the first day of the Term, and all federal, provincial and municipal tax returns required to be filed and paid or made as of the date hereof, have been so filed, paid or made.

- (iii) There are no judgments or orders of any court or tribunal outstanding related to or connected with the Immovable and Existing Improvements, nor is there any litigation, administrative proceeding, investigation or other legal action or claims (including any proceeding under any applicable bankruptcy or insolvency laws) pending or, to the knowledge of the Bare Owner, threatened, against the Immovable and Existing Improvements.
- (iv) The Immovables and Existing Improvements comply with all applicable laws and Permitted Encumbrances.
- (v) To its knowledge, (i) no Hazardous Material is now or was formerly used, stored, generated, manufactured, installed, treated, discharged, disposed of or otherwise present at or about the Immovable and Existing Improvements or any property adjacent to the Immovable and Existing Improvements (except for cleaning and other products currently used in connection with the routine maintenance or repair of the Immovable and Existing Improvements in full compliance with Environmental Laws) and no Hazardous Material was removed or transported from the Immovable and Existing Improvements, (ii) all permits, licenses, approvals and filings required by Environmental Laws have been obtained, and the use, operation and condition of the Immovable and Existing Improvements does not, and did not previously, violate any Environmental Laws, (iii) no civil, criminal or administrative action, suit, claim, hearing, investigation or proceeding has been brought or been threatened, nor have any settlements been reached by or with any parties or any liens imposed in connection with the Immovable and Existing Improvements concerning Hazardous Materials or Environmental Laws; and (iv) no underground storage tanks exist on any part of the Immovable and Existing Improvements.
- (vi) No repairs, modifications or renovations have been made to the Immovable and Existing Improvements, except those which have been fully paid for.

**ARTICLE 16
COVENANTS**

16.1 Emphyteutic Lessee's Covenants

- 16.1.1 Notwithstanding any provisions of the *Civil Code of Québec* or any other applicable law or regulation, the Emphyteutic Lessee agrees, save as otherwise provided herein, to maintain (reasonable wear and tear excepted) the Development and all equipment, machinery and other facilities therein, in good order and condition, including all repairs, structural or otherwise, exterior or interior, and will repair, replace, rebuild or reconstruct the same or any part thereof which may become worn, dilapidated or destroyed, in whole or in part.
- 16.1.2 In order to monitor the performance of the Emphyteutic Lessee's obligations under Section 16.1 hereof, the Bare Owner and any employee, servant or agent of the Bare Owner shall be entitled at any reasonable time upon reasonable prior notice to enter and examine the state of maintenance, repair and order of the Development and all equipment and fixtures therein.
- 16.1.3 In the event of any material repairs or structural repair, replacement, rebuilding or reconstruction of the Development becoming necessary (and if a governmental body or agency of competent jurisdiction orders any such material repairs, structural repair, replacement, rebuilding or reconstruction, such order shall be prima facie evidence that same have become necessary), the Emphyteutic Lessee shall perform the same but before commencing or causing to be commenced any work in that respect shall submit the plans and specifications therefor to the Bare Owner for approval, which approval shall not be withheld or delayed so long as the proposed work will not have a material adverse effect on the value of the Bare Owner's interest in the Development and shall be deemed to have been given unless the Bare Owner notifies the Emphyteutic Lessee in writing, within sixty (60) days of its submission, or within such shorter delay as may be necessary to comply with an order of a competent governmental body or agency, of its refusal thereof. Notwithstanding the foregoing, the plans and specifications in respect of any material repairs, structural repair, replacement or rebuilding required by any governmental body or agency of competent jurisdiction shall be approved by the Bare Owner unless the Bare Owner shall not be satisfied with the proposed design or mode of construction on the grounds that such design or mode of construction, in the Bare Owner's opinion acting reasonably, will have a material adverse effect on the value of the Bare Owner's interest in the Development in which case the Emphyteutic Lessee shall modify such design or mode of construction so as to eliminate such material adverse effect on the Development. The provisions of Section 8.5 will apply mutatis mutandis to this Section 16.1.3. Forthwith after such approval has been obtained, the Emphyteutic Lessee shall proceed with such work with all reasonable diligence.

Should such material repairs or structural repair, replacement, rebuilding or reconstruction be of such a minor nature as to not require any plans and specifications, same shall not be submitted for the Bare Owner's approval.

16.1.4 In the event of the failure on the part of the Emphyteutic Lessee to comply with the provisions of this Article 16, and without prejudice to the Bare Owner's right to terminate this Emphyteusis in accordance with Article 10, the Bare Owner shall have the right but shall not be obliged to take such action as shall be reasonably required to remedy such failure on the part of the Emphyteutic Lessee provided that the Bare Owner shall take no action under this Section unless it has given the Emphyteutic Lessee thirty (30) days' written notice of the failure complained of and the Bare Owner's intention to remedy the same (or, in the case such failure is of such a nature that it could reasonably be expected to result in serious damage or harm to the Bare Owner or to the Development, such shorter period of notice as shall be reasonable in the circumstances) and the Emphyteutic Lessee has not taken action in a diligent manner within the period of said notice to remedy such failure. Any costs reasonably incurred by the Bare Owner in taking any such action shall be immediately payable by the Emphyteutic Lessee to the Bare Owner.

16.1.5 The Emphyteutic Lessee hereby further undertakes:

- (a) to refrain from carrying out, other than the Improvements any construction, work or other undertaking endangering the existence of the Immovable or diminishing the value thereof;
- (b) to not demolish the whole or any part of the Existing Improvements and the Improvements or any other construction or work without the Bare Owner having given its prior written consent to a redevelopment project of equivalent or greater value according to plans and specifications and a timetable and in a manner previously approved in writing by the Bare Owner acting reasonably;
- (c) to promptly give notice to the Bare Owner of any material breach of Environmental Laws and any Environmental Condition;
- (d) at its sole cost and expense, to take or cause to be taken all actions necessary (i) to ensure that the Emphyteutic Lessee, and any other person for whose conduct the Emphyteutic Lessee is or may be held responsible, including any tenant of the Development, to comply at all times with all Environmental Laws, (ii) to promptly prevent or remove any Release or threat of Release of Regulated Materials at or from the Development, and remove any Environmental Condition at or from the Development, to comply with Environmental

Laws, and (iii) to achieve any characterization, remediation or cleanup standards that are required pursuant to Environmental Laws; and

- (e) upon termination of the Emphyteusis, to remediate forthwith any Environmental Condition or Release or threat of Release of Regulated Materials in order that the Development comply with Environmental Laws.
- (f) to exhibit, upon written request by the Bare Owner, within reasonable delay to the Bare Owner and to such other persons as may be designated in writing by the Bare Owner from time to time, the receipts establishing payment of any and all sums payable by the Emphyteutic Lessee or, if the Bare Owner is required to make such payment, the Emphyteutic Lessee shall forthwith reimburse to the Bare Owner the amount so paid by the Bare Owner, the whole without prejudice to the Bare Owner's rights hereunder.

16.2 Bare Owner Covenants

16.2.1 The Bare Owner shall remain a special purpose vehicle created solely to own and hold the Bare Owner's Interest and shall not change the nature of its business, nor pursue or carry on any activities or operations other than those set out herein.

16.2.2 Notwithstanding anything provided herein, the Bare Owner shall not transfer any of its property or asset without the prior written consent of the Emphyteutic Lessee.

16.2.3 The Bare Owner shall fulfill, comply with or perform in all material respects each and every one of its covenants, undertakings and obligations herein and under the Loan Document.

16.2.4 The Bare Owner shall not amalgamate, merge, dissolve, liquidate, be involved with an arrangement, consolidate with or into another Person, suffer or permit a Change in Control to occur save in accordance with the provisions of Section 9.1 hereof.

16.2.5 The Bare Owner further undertakes to:

- (a) discharge and release the hypothecs indicated at paragraphs (viii) and (ix) under the definition of "Permitted Encumbrances" before the Deposit is remitted in full as provided hereunder; and
- (b) cooperate fully with the Emphyteutic Lessee to correct the setback irregularities (as indicated in Article VIII entitled *Undertaking* in the Schedule to the Facility Letter) including, if need be, transferring a sufficient portion of neighboring lots 1 064 064 or 1 064 352, as applicable, necessary to correct the

setback irregularities, the whole at no cost to the Emphyteutic Lessee.

**ARTICLE 17
CONSTRUCTION PRIVILEGES OR LEGAL HYPOTHECS**

- 17.1 If a privilege or a legal hypothec is registered against the Development in accordance with articles 2726 to 2728 of the *Civil Code of Québec*, the Emphyteutic Lessee shall forthwith take all reasonable steps to have the same discharged, provided, however, that the Emphyteutic Lessee shall have the right to contest by legal proceedings or in any other manner as it may deem suitable any such privilege or legal hypothec and in such event, the Emphyteutic Lessee may defer payment of the contested item, provided always that, if required by the Bare Owner or the Emphyteutic Lessee's Hypothecary Creditors, if any, the Emphyteutic Lessee shall give security satisfactory to the Emphyteutic Lessee's Hypothecary Creditors for the due payment of any such privilege or legal hypothec (plus legal costs and interest) in case it shall be deemed to be valid, unless the Emphyteutic Lessee's Hypothecary Creditor shall be an Affiliate of the Emphyteutic Lessee, in which case such security shall be satisfactory to the Bare Owner and the Emphyteutic Lessee's Hypothecary Creditors.

**ARTICLE 18
COVENANTS TO COMPLY AND CONFORM TO APPLICABLE
STATUTES, LAWS, ETC.**

- 18.1 The Emphyteutic Lessee shall during the Term comply with and conform in all material respects to the requirements of every applicable statute, law, by-law, regulation, ordinance and order from time to time or at any time in force, and affecting the condition, maintenance, use or occupation of the Development, and all equipment, fixtures and facilities therein. If the Emphyteutic Lessee defaults in the performance of its obligations under this Section 18.1 and subsequently achieves the required compliance and conformity within the delays required hereunder, such default shall be conclusively deemed to have been cured for all intents and purposes.

**ARTICLE 19
COVENANT AS TO PAYMENT OF MORTGAGES**

- 19.1 The Emphyteutic Lessee covenants and agrees that, during the construction of the Improvements, it will pay as and when the same fall due all amounts payable by the Emphyteutic Lessee under any Encumbrance of the Emphyteutic Lessee's Interest and will perform in all material respects all its other covenants under any such Encumbrance and will not suffer to exist any default thereunder.
- 19.2 Except for the Facility Letter and any document delivered pursuant thereto, the terms of any instrument securing indebtedness by way of Encumbrance of the Emphyteutic Lessee's Interest shall require the Emphyteutic Lessee's Hypothecary Creditor or other encumbrancer to

give the Bare Owner notice of any default thereunder at the same time as that notice is given to the Emphyteutic Lessee.

**ARTICLE 20
GENERAL PROVISIONS**

- 20.1 All payments of the Consideration and other sums payable to the Bare Owner by the Emphyteutic Lessee hereunder shall be made at the address of the Bare Owner determined in accordance with the provisions of Section 20.3.
- 20.2 Within thirty (30) days from the date of the execution of any deed or instrument whereby any part of the Development is alienated or a charge, or privilege or conventional or legal hypothec is registered on the Development or any part thereof, the Emphyteutic Lessee shall, at its own expense, furnish the Bare Owner with a registered copy of such deed or instrument.
- 20.3 Any notice, demand, consent, refusal, approval or request (hereinafter in this Section 20.3 referred to as "Notice") given, served, made or obtained, or required to be given, served, made or obtained hereunder shall be in writing and shall be given to each of the parties below by personal delivery or by telecopier which results in a written or printed Notice being given, addressed or sent as set out below or to such other address or number as may from time to time be the subject of Notice:

9175-2246 QUÉBEC INC.
8550 Pie-IX Boulevard
Suite 250
Montréal, QC H1Z 4G2
Fax number: (514) 282-0289.

Attention: President

With a copy to:

DRAZIN FRIEDMAN NOTARIES
2021 Union
Suite 888
Montréal, QC H3A 2S9
Fax number: (514) 282-0289

Attention: Louis Drazin

SYSCOR
6600 Côte des Neiges
Suite 225
Montréal, QC H3S 2A9
Fax number: (514) 934-8099

Attention: President

With a copy to

HSBC BANK CANADA
2001 McGill College Avenue
Suite 300
Montreal, QC H3A 1G1

Attention: Assistant Vice President, Commercial Real Estate
Fax number: (514) 285-8638

Any Notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by telecopier with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the same day if effectively received prior to 5:00 pm (Montreal Time) and if not on the Business Day next following the day it was effectively received or if mailed as afore said, the fifth (5th) Business Day following the date of the mailing.

Either party may at any time advise the other party of a change of address by following the procedure established above.

Whenever herein any period of days following the giving of any Notice is specified for any purpose, in determining the date upon which such period shall end, there shall be excluded the day on which such Notice is given.

- 20.4 The present Emphyteusis shall enure to the benefit of and be binding upon the parties hereto, their successors and permitted assigns.
- 20.5 The Emphyteutic Lessee shall pay the cost of registration of this Deed and of four (4) copies thereof.
- 20.6 Any commission or fee payable to any real estate agent or broker with respect to the conveyance of the Immovable by way of this Emphyteusis shall be paid by the Emphyteutic Lessee to the entire exoneration of the Bare Owner. The Bare Owner hereby represents and warrants that it has not retained the services of any real estate agent or broker in connection with the conveyance of the Immovable by way of this Emphyteusis.
- 20.7 No waiver, release or modification of any condition or obligation hereunder by one party in favour of the other shall be valid unless made expressly in writing and signed by both parties. No waiver or series of waivers by the Bare Owner shall be construed as a modification of any of the provisions hereof, and the receipt by the Bare Owner of Consideration with knowledge of the breach of any covenant herein shall not be deemed the waiver of any such breach. No waiver by either party of any default made by the other party under this Deed shall be construed as a waiver of any other default which has been made or which may thereafter be made by either party unless so specified in writing,

- 20.8 In the event of any conflict, inconsistency or incompatibility between the provisions of this Deed and the provisions of any agreement entered into by and between the Emphyteutic Lessee and any one of 9175-2188 Québec Inc. and the Bare Owner, including, without limitation, any Loan Document, the provisions contained in this Deed will prevail as between the Emphyteutic Lessee and the Bare Owner to the extent of such conflict, inconsistency or incompatibility.

ARTICLE 21 ADJUSTMENTS

- 21.1 The parties agree that all adjustments for taxes, Consideration and other adjustable matters under this Emphyteusis have been made as of the date hereof.

ARTICLE 22 LIMITATION

- 22.1 The Emphyteutic Lessee acknowledges that the obligations of 9175-2246 Québec Inc. created hereunder and any liabilities of 9175-2246 Québec Inc. which arises in any manner whatsoever out of or in connection herewith are not personally binding upon, and that resort shall not be had to, nor recourse of satisfaction sought from, the personal property of any of the shareholders of 9175-2246 Québec Inc. or the beneficial owner of the assets of 9175-2246 Québec Inc.

ARTICLE 23 LANGUAGE

- 23.1 The parties hereby confirm their request that the present Deed be drafted in the English language.
- 23.2 Les parties reconnaissent avoir requis que le présent acte soit rédigé en langue anglaise.

ARTICLE 24 PARTICULARS REQUIRED UNDER SECTION 9 OF THE ACT CONCERNING DUTIES ON TRANSFERS OF IMMOVABLES (the "Act")

- 24.1 For the purposes of the Act, the parties make the following declarations:
- 24.1.1 the names and addresses of the principal residences of the Bare Owner and the Emphyteutic Lessee are as above stated in this Deed; and
- 24.1.2 according to the Bare Owner and the Emphyteutic Lessee, there is no transfer, at the same time, of corporeal immovable and movables as provided for at Section 1.0.1 of the Act; and
- 24.1.3 the Immovable is located in the City of Montréal; and

- 24.1.4 the amount constituting the basis of imposition of the transfer duties is five million sixty thousand dollars (\$5,060,000); and
- 24.1.5 the Bare Owner and the Emphyteutic Lessee do hereby declare that the value of the consideration of the Immovable is the sum of five million sixty thousand dollars (\$5,060,000); and
- 24.1.6 the amount of the transfer duties, if applicable, would be the sum of ninety-seven thousand two hundred dollars (\$97,200).

THUS DONE AND PASSED at Montréal, Province of Québec, on the date first hereinbefore mentioned and remaining of record in the office of the undersigned Notary under his minute number Two Thousand Six Hundred Eighty-Six-----
(---2686---).

AND THE PARTIES, after having declared to have taken cognizance of these presents and having exempted the said notary from reading them or causing them to be read, have signed with and in the presence of the undersigned notary.

9175-2246 QUÉBEC INC.

Per: 


Bertrand P. Ménard

SYSCOR

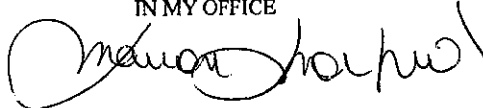
Per: 

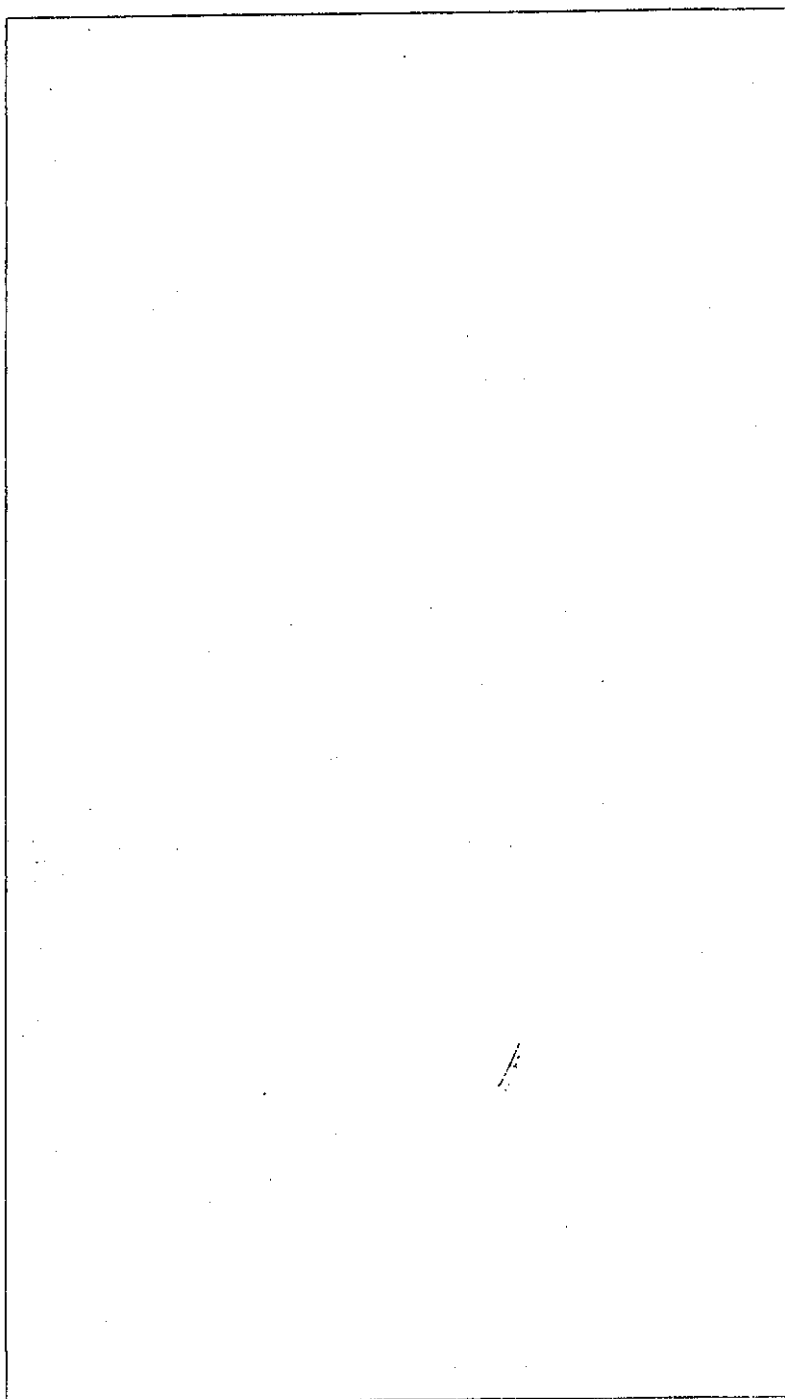
Jean Lamothe

Authorized Representative

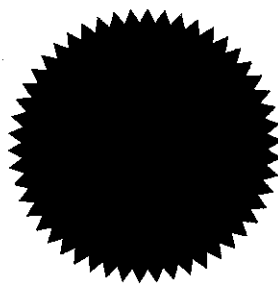

Manon Wolfe, Notary

TRUE COPY OF THE ORIGINAL
HEREOF REMAINS OF RECORD
IN MY OFFICE





i. 2



IN THE YEAR TWO THOUSAND ELEVEN, on this TWENTY-FOURTH (24th) day of March.

BEFORE Mtre. Manon Wolfe, Notary at Montréal, Province of Québec.

CAME AND APPEARED:

SYSCOR, a legal person having its head office at 6600 Côte des Neiges, Suite 225, Montréal, Province of Québec, incorporated under the Laws of Québec, herein acting and represented by Jean Lamothe, its authorized representative, hereunto duly authorized pursuant to a power of attorney dated the 24th day of March, 2011 and a certified extract of the minutes of the board of directors dated the 24th day of March, 2011, copies of which remain hereunto annexed after having been acknowledged as true and signed for identification by the said representative in the presence of the undersigned Notary, hereinafter called the "Emphyteutic Lessor".

AND:

SYSCOR II, a legal person having its head office at 6600 Côte des Neiges, Suite 225, Montréal, Province of Québec, incorporated under the Laws of Québec, herein acting and represented by Jean Lamothe, its authorized representative, hereunto duly authorized pursuant to a power of attorney dated the 24th day of March, 2011 and a resolution of the board of directors dated the 24th day of March, 2011, copies of which remain hereunto annexed after having been acknowledged as true and signed for identification by the said representative in the presence of the undersigned Notary, hereinafter called the "Emphyteutic Sub-Lessee".

WHEREAS the Emphyteutic Sub-Lessee and the Emphyteutic Lessor wish to enter into the present Sub-Emphyteusis of the Immovable, on the terms and conditions hereinafter set forth.

NOW THEREFORE THE PARTIES HERETO HAVE AGREED AS FOLLOWS:

**ARTICLE 1
INTERPRETATION**

- 1.1 The following words and phrases wherever used in this Deed shall, unless there be something in the context inconsistent therewith, have the following meanings:
 - 1.1.1 "Affiliates" or "Affiliate" means an affiliate, as defined in the Canada Business Corporations Act.
 - 1.1.2 "Applicable Laws" means, in respect of any Person, property, transaction or event, all applicable federal, provincial or municipal

laws, statutes, regulations, rules, by-laws, policies and guidelines, orders, permits, licenses, authorization, approvals and all applicable common laws or equitable principles whether now or hereafter in force and effect.

- 1.1.3 "Bankruptcy Proceeding" means a petition, an involuntary proceeding, case or proposal under any bankruptcy, insolvency, debt restructuring, reorganization, incorporation, dissolution, liquidation, winding up or similar law now or hereinafter in effect, seeking the liquidation, reorganization, dissolution, winding up of the Emphyteutic Lessor, the appointment of a trustee, receiver, receiver and manager, custodian, liquidator, administrator or the like for the Emphyteutic Lessor or all or any material part of the Emphyteutic Lessor's assets (including without limitation proceedings under the *Bankruptcy and Insolvency Act*, the *Winding up and Restructuring Act*, the *Companies' Creditors' Arrangement Act*, the corporate statute under which the Emphyteutic Lessor of the Immovable is organized or other similar legislation).
- 1.1.4 "Business Day" means any day of any week except Saturdays, Sundays and statutory holidays observed in the Province of Québec.
- 1.1.5 "Completion Date" shall have the meaning set forth in ARTICLE 4 hereof.
- 1.1.6 "Consideration" means the annual consideration payable under ARTICLE 5.
- 1.1.7 "Construction Contract" means the construction contract dated March 13, 2009 among 9175-2246 Québec Inc. and Pomerleau Inc., as assigned to the Emphyteutic Lessor on even date herewith, and as amended and restated by a cost plus construction contract dated of even date herewith among the Emphyteutic Lessor and Pomerleau Inc.
- 1.1.8 "Construction Management Agreement" means that certain construction management agreement entered into on March 22, 2011, between Groupe Mach Inc. and Syscor II.
- 1.1.9 "Construction Schedule" means the Construction Schedule for the construction of the Improvements, a copy of which is attached hereto as Schedule "A", after having been acknowledged true and signed for identification by the parties hereto with the undersigned Notary, as same may be amended from time to time by consent of the parties hereto.
- 1.1.10 "Consumer Price Index" means the Consumer Price Index, All items, for Montréal, published by Statistics Canada or a successor publisher or, in the absence thereof, any equivalent index.
- 1.1.11 "Deposit" means the deposit in the amount of \$21,265,332 tendered by the Emphyteutic Lessor to 9175-2246 Québec Inc. pursuant to the

Emphyteusis in order to guarantee the Emphyteutic Lessor's obligations under the Emphyteusis.

- 1.1.12 "Development" means the Existing Improvements, the Immovable and, from and after the date hereof, with all the Improvements to be made thereto.
- 1.1.13 "Emphyteusis" means the Emphyteusis entered into on the date hereof between 9175-2246 Québec Inc., as bare owner, and the Emphyteutic Lessor, as emphyteutic lessee.
- 1.1.14 "Emphyteutic Lessor's Interest" means all of the Emphyteutic Lessor's right, title and interest (i) under this Sub-Emphyteusis and (ii) in the Development, as set forth herein.
- 1.1.15 "Emphyteutic Lessor's Hypothecary Creditor" refers to each person:
- 1.1.15.1 Holding a conventional hypothec on all or part of the Emphyteutic Lessor's Interest, or
- 1.1.15.2 Acting as trustee or trustees for the holder or holders of any issue of bonds secured by a trust deed of hypothec, mortgage and pledge on all or part of the Emphyteutic Lessor's Interest.
- 1.1.16 "Emphyteutic Sub-Lessee's Hypothecary Creditor" refers to each person:
- 1.1.16.1 Holding a conventional hypothec on all or part of the Emphyteutic Sub-Lessee's Interest, or
- 1.1.16.2 Acting as trustee or trustees for the holder or holders of any issue of bonds secured by a trust deed of hypothec, mortgage and pledge on all or part of the Emphyteutic Sub-Lessee's Interest.
- 1.1.17 "Emphyteutic Sub-Lessee's Interest" means all of the Emphyteutic Sub-Lessee's right, title and interest (i) under this Sub-Emphyteusis, (ii) in the Development, and (iii) in the Option Hypothec, Option Agreement and the Deposit, as set forth herein.
- 1.1.18 "Encumbrance" means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, royalty agreement, security interest of any nature, adverse claim, exception, reservation, easement, encroachment, servitude, restriction on use, right of occupation, any matter capable of registration against title, option, right of first offer or refusal or similar right, right of pre-emption or privilege or any deed, document or contract to create any of the foregoing.
- 1.1.19 "Environment" means soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air, and any

combination of any of them, living species and any natural system with which living species interact.

- 1.1.20 "Environmental Condition" means any condition involving or resulting from the presence of Regulated Materials in the Environment (whether or not yet discovered), which is reasonably likely to or does result in any loss to or against the Emphyteutic Sub-Lessee or the Emphyteutic Lessor (including claims or requests by any third party or any Governmental Authority, and including any condition resulting from any activity or operation formerly conducted by any Person in connection with the Immovable).
- 1.1.21 "Environmental Laws" means all Applicable Laws, regulations, by-law, code, policies or guidelines relating, in whole or in part, to the Environment or the protection of the Environment, or the manufacture, processing, distribution, sale, use, treatment, storage, disposal, removal, recovery, discharge, destruction, packaging, labeling, transport or handling of any pollutants, contaminants, chemicals, dangerous, toxic or hazardous substances or materials, waste or Regulated Materials, including the *Politique de protection des sols et de réhabilitation des terrains contaminés* (Québec).
- 1.1.22 "Existing Improvements" means all of the buildings, structures and other improvements, or portions thereof, constructed on, under or above the Immovable at the commencement date of the Term.
- 1.1.23 "Facility Letter" means that certain facility letter issued on November 9, 2010 by HSBC Bank Canada to the Emphyteutic Lessor, and accepted by the Emphyteutic Lessor, as borrower, and 9175-2246 Québec Inc., as guarantor, on November 15, 2010, to which the Emphyteutic Sub-Lessee became a party as guarantor pursuant to a guarantor joinder agreement dated March 24, 2011, as amended by amending agreement dated March 24, 2011, and as same may be further amended, restated, supplemented or modified from time to time, pursuant to which credit facilities were extended to the Emphyteutic Lessor.
- 1.1.24 "Governmental Approval" means any authorization, consent, certificate, registration, approval, license, ruling, permit, exemption, variance, order, judgment, decree, declarations of or regulation set forth by or required from any Governmental Authority under any Applicable Laws.
- 1.1.25 "Hazardous Materials" means (a) petroleum or chemical products, whether in liquid, solid, or gaseous form, or any fraction or by-product thereof, (b) asbestos or asbestos-containing materials, (c) polychlorinated biphenyls (-PCBs), (d) radon gas, (e) underground storage tanks, (f) any explosive or radioactive substances, (g) lead or lead based paint, or (h) any other substance, material, waste or mixture which is or shall be listed, defined, or otherwise determined by any governmental authority to be hazardous, toxic, dangerous or

otherwise regulated, controlled or giving rise to liability under any Environmental Laws.

1.1.26 "Improvements" means all additions, construction work, plantations and other improvements to be made on the Immovable and the Existing Improvements in accordance with the Plans and Specifications which will durably and materially increase the value thereof.

1.1.27 "Immovable" means the land situated in the City of Montréal and forming part of the Official cadastre for the City of Montréal, Registration Division of Montréal, more fully described as follows:

That certain emplacement fronting on Cedar Avenue, in the City of Montreal, Province of Quebec, known and designated as being lot number FOUR MILLION TWENTY-SIX THOUSAND EIGHT HUNDRED AND FIFTY-SEVEN (4 026 857) of the Cadastre du Québec, registration division of Montréal.

Together with the building thereon erected bearing civic number 1724 and 1750 Cedar Avenue, in the City of Montreal, Province of Quebec, H3G 1A3.

Together with the multi-level parking lot thereon erected.

As the said property now subsists, together with all its rights, members and appurtenances, servitudes active or passive, apparent or occult, thereto attached, without exception or reserve, together with all constructions and works of a permanent nature now or hereafter located thereon and forming an integral part thereof and with all buildings now or hereafter thereon erected, and together with all heating systems, lighting fixtures, refrigerators, stoves, washing machines and dryers, which may be owned by the Emphyteutic Lessor and shall be provided in an "as is" "where is" condition, the whole without exception or reserve of any kind on the part of the Emphyteutic Lessor.

1.1.28 "Knowledge" means the knowledge of the officers of the Emphyteutic Lessor and its Affiliates dealing directly with the Immovable after reasonable enquiry.

1.1.29 "Option Agreement" means that certain option agreement entered into on the date hereof, by 9175-2246 Québec Inc. in favor of the Emphyteutic Lessor whereby 9175-2246 Québec Inc. granted the Emphyteutic Lessor an option to purchase the Immovable and the Improvements, which agreement is assigned to the Emphyteutic Sub-Lessee as set forth in Section 2.2 below.

1.1.30 "Option Hypothec" means that certain immovable hypothec entered into on the date hereof, by 9175-2246 Québec Inc., as grantor, in favour of the Emphyteutic Lessor, as a security for, *inter alia*, (i) the option to purchase the Immovable and the Improvements granted by

9175-2246 Québec Inc. to the Emphyteutic Lessor pursuant to the Option Agreement, which hypothec is assigned to the Emphyteutic Sub-Lessee as set forth in Section 2.2 below, and (ii) the representations, warranties and covenants made in the Emphyteusis by 9175-2246 Québec Inc. in favour of the Emphyteutic Lessor.

1.1.31 "Permitted Encumbrances" means:

- (i) any leases, servitudes or operating agreements affecting the Immovable, provided that:
 - (a) the consideration to the Emphyteutic Sub-Lessee thereunder is fully stated therein;
 - (b) such consideration advances or benefits the development of the Immovable or the Improvements or the operation thereof;
 - (c) such consideration is not less than the fair market value of the rights in question granted by the Emphyteutic Sub-Lessee thereunder at the time of each such grant;
 - (d) no such lease, servitude or operating agreement shall create any hypothec (legal or conventional), prior claim or other right as such may rank prior to or *pari passu* with the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditor; and
 - (e) a copy of any and all such Leases, servitudes and operating agreements have been provided to the Emphyteutic Sub-Lessee;
- (ii) the Servitude;
- (iii) the Emphyteusis;
- (iv) this Sub-Emphyteusis;
- (v) the deed of hypothec dated March 24, 2011 granted by the Emphyteutic Sub-Lessee in favour of HSBC Bank Canada, before Mtre. Manon Wolfe;
- (vi) the deed of hypothec dated March 24, 2011 granted by the Emphyteutic Lessor in favour of HSBC Bank Canada, before Mtre. Manon Wolfe;
- (vii) the deed of hypothec dated March 24, 2011 granted by 9175-2246 Québec Inc. in favour of HSBC Bank Canada, before Mtre. Manon Wolfe;
- (viii) the deed of hypothec dated December 22, 2006 granted by 9175-2188 Québec Inc. in favour of HSBC Bank Canada and registered under number 13 921 443;

- (ix) the deed of hypothec dated March 21, 2011 granted by 9175-2246 Québec Inc. in favour of HSBC Bank Canada and registered under number 17 983 290;
 - (x) the Option Hypothec;
 - (xi) the deed of hypothec dated March 24, 2011 granted by the Emphyteutic Sub-Lessee and the Emphyteutic Lessor in favour of Pomerleau Inc., before Mtre. Manon Wolfe
 - (xii) any defects or Encumbrances presently affecting title to the Immovable and fully disclosed to the Emphyteutic Sub-Lessee;
 - (xiii) any Encumbrances on title which originate subsequent to the date hereof and which are attributable to an act or omission on the part of the Emphyteutic Lessor, provided same shall not permit the Emphyteutic Lessor to create any Encumbrance on title in breach of the Emphyteutic Lessor's obligations hereunder; and
 - (xiv) any Encumbrances on title which are expressly permitted pursuant to the terms and conditions set forth in the Emphyteusis.
- 1.1.32 "Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization or any other form of entity.
- 1.1.33 "Plans and Specifications" means the plans and specifications related to the Improvements and referred to in the Construction Management Agreement, as same may be amended from time to time by consent of the parties hereto.
- 1.1.34 "Prime Rate" means the prime rates of the Royal Bank of Canada in effect on the first day of each month during the Term. For greater certainty, the "prime rate" of any such bank shall mean the prime lending rate of interest, expressed as a rate per annum, which such bank establishes as a reference rate of interest in order to determine the interest rate that it will charge on any particular day for loans in Canada in Canadian dollars to its commercial borrowers.
- 1.1.35 "Regulated Materials" means any chemical, substance, particule, solid, gas, liquid, material or waste which is now or becomes listed, defined or regulated in any manner by Environmental Laws, including asbestos, PCB's, natural gas, greenhouse gas, and petroleum or petroleum containing substances.
- 1.1.36 "Regulatory Approval" means all consents, permits, authorizations and any other approvals which may be required from time to time from any authority having jurisdiction over any aspect of the matters contemplated herein, such approvals to include, without limitation, a by-law of the City of Montréal permitting the construction of the Development.

- 1.1.37 "Release" means any release, spill, leak, discharge, disposal, pumping, pouring, emission, emptying, injection, leaching, dumping, deposit, escape or migration into the Environment.
- 1.1.37.1 "Servitude" means the servitude of tolerance of encroachment and of right of passage published on March 18, 2011, under number 17 978 937 against the Immovable and lot 1 064 064.
- 1.1.38 "Sub-Emphyteusis", "this Deed", "these presents", "herein", "hereby" "hereunder" and similar expressions refer to this Sub-Emphyteusis.
- 1.1.39 "Term" means the term set forth in ARTICLE 4 hereof.
- 1.1.40 "Transfer" shall have the meaning ascribed thereto in Section 9.1.
- 1.1.41 "Unavoidable Delay" means any delay in the performance by any party hereto of its obligations hereunder caused in whole or in part by any force majeure, acts of God, strikes, lockouts or other industrial disturbances, sabotage, war, blockades, insurrections, riots, civil disturbances, breakage of or accident to machinery, inability to obtain materials or equipment, extreme weather conditions, fire, explosion, earthquake, any legislative or administrative action, any judicial action which has been resisted in good faith by all reasonable legal means, any act, omission or event whether of the kind herein enumerated or otherwise not within the reasonable control of a party, and which by the exercise of due diligence the party could not have prevented, but lack of funds on the part of a party shall not constitute an Unavoidable Delay.
- 1.2 Grammatical variations of any terms defined herein have corresponding meanings; words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and the neuter genders and words importing persons shall include firms, associations and corporations and vice versa.
- 1.3 The headings herein have been inserted for convenience of reference only and shall not affect the construction or interpretation of this Deed.
- 1.4 Where reference is herein made to an Article hereof, such reference shall include all subdivisions of such Article; and where reference is herein made to a Section hereof, such reference shall include all subdivisions of such Section.
- 1.5 This Sub-Emphyteusis is to be governed by and construed in all respects and enforced in accordance with the laws of the Province of Québec and the laws of Canada applicable thereto, and shall be treated in all respects as a Québec contract.

- 1.6 If the date upon which something is required to be done hereunder or upon which a delay expires hereunder should fall on a day which is not a Business Day, such date shall be postponed to the next following Business Day.
- 1.7 If the rights of the Emphyteutic Sub-Lessee are, at any time, owned by more than one person, all persons holding rights of the Emphyteutic Sub-Lessee, shall be bound solidarily for all obligations of the Emphyteutic Sub-Lessee toward the Emphyteutic Lessor hereunder.
- 1.8 Whenever it is provided herein that a party hereto or its experts must give their consent or must do something, each such party or expert shall act reasonably, diligently and in good faith.

ARTICLE 2 CONVEYANCE AND ASSIGNMENT

2.1 CONVEYANCE

- 2.1.1 The Emphyteutic Lessor does hereby convey the Immovable by way of emphyteusis to the Emphyteutic Sub-Lessee, free and clear of all Encumbrances, subject only to Permitted Encumbrances and with legal warranty and the Emphyteutic Sub-Lessee does hereby accept such conveyance from the Emphyteutic Lessor.
- 2.1.2 It is the express intent of the parties hereto that the present Deed be an emphyteusis; should any provision hereof be declared by a final judgment of a competent Court to be inconsistent with the notion of emphyteusis as stipulated by the *Civil Code of Québec*, as the same may be amended or replaced from time to time, or otherwise declared null or unenforceable, said provision shall be deemed not to have been written and shall not apply and, the parties shall forthwith enter into such other agreement or agreements as their respective legal counsel may deem appropriate in order to replace, in an alternate legal form, such null, inconsistent or unenforceable provisions.
- 2.1.3 The Emphyteutic Lessor declares to the Emphyteutic Sub-Lessee that it has supplied the latter with photocopies of all title deeds and certificates of search relating to the Immovable which it has in its possession, and the Emphyteutic Sub-Lessee acknowledges that the Emphyteutic Lessor shall not be obliged to supply the Emphyteutic Sub-Lessee with any other copies of title deeds or certificates of search relating to the Immovable than those already furnished. Furthermore, the Emphyteutic Lessor shall not be responsible for the cost of any survey of the Immovable, or for a subdivision plan, soil tests or municipal utility permits for the Immovable.
- 2.1.4 The Emphyteutic Sub-Lessee hereby declares that it has examined the Immovable and is content and satisfied therewith and the Emphyteutic Lessor has exempted the Emphyteutic Sub-Lessee from

drawing up a statement of the Immovable pursuant to Article 1201 of the *Civil Code of Québec*.

2.2 ASSIGNMENT

- 2.2.1 The Emphyteutic Lessor hereby assigns all of its rights, title and interest in and to the Option Agreement, the Option Hypothec and the Deposit and all the benefits and advantages to be derived therefrom to the Emphyteutic Sub-Lessee.
- 2.2.2 The Emphyteutic Sub-Lessee, as primary obligor, hereby agrees to be bound by and to observe and perform from and after the date hereof, any and all of the Emphyteutic Lessor's obligations set forth in the Option Agreement, the Option Hypothec and in connection with the Deposit, from and after the date hereof as if the Emphyteutic Sub-Lessee was, from and after the date hereof, a party to the Option Agreement and the Option Hypothec.
- 2.2.3 The foregoing assignment is made to the complete exoneration of the Emphyteutic Lessor's obligations under the Option Agreement, the Option Hypothec and in connection with the Deposit.

**ARTICLE 3
IMPROVEMENTS**

- 3.1 The Emphyteutic Sub-Lessee shall construct Improvements on the Immovable, the whole substantially in accordance with the Plans and Specifications and use its commercially reasonable efforts to substantially complete same within the time period set forth in the Construction Schedule as same may be amended from time to time by the parties acting reasonably and in conformity with all laws, by-laws, regulations, zoning by-laws, orders of a Governmental Authority; the Emphyteutic Sub-Lessee shall obtain and pay for all permits required for the Improvements.
- 3.2 Notwithstanding Section 3.1, the Emphyteutic Sub-Lessee shall not have any obligation, be responsible for nor undertake any work, or offer any services, directly related to the installation of cables or wires, such work to remain the sole obligation of the Emphyteutic Lessor pursuant to the Emphyteusis.
- 3.3 Once having commenced the construction of the Improvements, the Emphyteutic Sub-Lessee shall proceed therewith and complete same with reasonable diligence and without unreasonable delay.
- 3.4 The Emphyteutic Sub-Lessee shall obtain and pay for all permits required for the construction of the Improvements and shall construct the Improvements in accordance with all applicable municipal, provincial and federal laws, by-laws and regulations.

**ARTICLE 4
TERM**

- 4.1 The present assignment in sub-emphyteusis is granted for a term (the "Term") extending from the date hereof to the date which is thirty-nine (39) years from the date on which the Improvements are substantially completed and ready for use by Emphyteutic Sub-Lessee for its intended purposes and "*Achèvement substantiel de l'ouvrage*", as defined in the Construction Contract has been achieved (the "Completion Date").
- 4.2 The Emphyteutic Sub-Lessee hereby renounces any abandonment of its right during the term of the assignment in sub-emphyteusis hereinabove provided, the whole as contemplated by article 1211 of the *Civil Code of Québec*.

**ARTICLE 5
CONSIDERATION**

- 5.1 The present assignment in emphyteusis has been granted for and in consideration of the payment of the consideration (the "Consideration") set forth in Schedule "B" hereof, after having been acknowledged true and signed for identification by the parties hereto with the undersigned Notary, which the Emphyteutic Sub-Lessee undertakes to pay to the Emphyteutic Lessor beginning on April 1st, 2011.
- 5.2 Any sum due by the Emphyteutic Sub-Lessee to the Emphyteutic Lessor under section 5.1 shall be paid directly to Emphyteutic Lessor on the first (1st) day of each month, or as otherwise provided in Schedule "B" hereof.
- 5.3 The Emphyteutic Sub-Lessee hereby agrees to indemnify the Emphyteutic Lessor for all costs related to the taxes, transfer duties and insurance related to the present Sub-Emphyteusis.
- 5.4 Unless otherwise specified herein, all overdue payments and other amounts which may be, at any time, due by the Emphyteutic Sub-Lessee to the Emphyteutic Lessor under this Deed shall bear interest at the rate of two percent (2%) above the Prime Rate per annum from the due date of the payment.

**ARTICLE 6
PAYMENT OF TAXES AND ASSESSMENTS**

- 6.1 The Emphyteutic Sub-Lessee binds and obliges itself during the Term to pay and discharge or to cause to be paid and discharged all assessments, taxes, transfers, duties, rates, insurance and other charges, whether general or special in nature, imposed, levied, assessed or charged by federal, provincial, municipal, school or other authority, on or in respect of the Development and the equipment and fixtures therein including any and all federal and provincial

goods and services taxes and all taxes which may be at any time imposed or assessed in addition thereto or in replacement thereof or in substitution therefor, any and all local improvement rates and taxes, and including its proportionate part of such taxes, assessments, rates and charges for the taxation years current at the date of commencement of this Sub-Emphyteusis and at the date of its termination, on the date when such assessments, taxes, rates, fees and other charges respectively become due. This obligation shall extend to the payment of any instalments of special assessments falling due during the Term, payment of which special assessments is permitted to be made by instalments during a number of years and all interest on such special assessments.

- 6.2 The Emphyteutic Sub-Lessee shall, upon written request by the Emphyteutic Lessor, forthwith exhibit to the Emphyteutic Lessor and to such other persons as may be designated in writing by the Emphyteutic Lessor from time to time, the receipts establishing payment of any and all sums payable by the Emphyteutic Sub-Lessee pursuant to Section 6.1 or, if the Emphyteutic Lessor is required to make such payment, the Emphyteutic Sub-Lessee shall forthwith reimburse to the Emphyteutic Lessor the amount so paid by the Emphyteutic Lessor, the whole without prejudice to the Emphyteutic Lessor's rights under ARTICLE 10 hereof.

ARTICLE 7 INSURANCE

- 7.1 The Emphyteutic Sub-Lessee undertakes and obliges itself to obtain at its own expense and maintain during the Term, in a form and with insurance companies selected by the Emphyteutic Sub-Lessee and approved by the Emphyteutic Lessor acting reasonably, the following insurance:
- 7.1.1 an All Risks physical builders risks course of construction insurance with policy limit of not less than the full replacement value or repair costs of all Improvements, covering all contractors and subcontractors (including materials on or off site). Such policy shall contain a waiver of subrogation in favour of all insureds and a loss payable clause as each insured's interest may appear;
- 7.1.2 a Wrap-Up liability insurance covering the cost of construction with a policy limit of not less than ten million dollars (\$10,000,000.00) covering all contractors, subcontractors, architects and engineers with a cross liability endorsement and a twelve-month completed operations endorsement; such policy shall contain evidence of contractual liability coverage;
- 7.1.3 following completion of construction of the Improvements, an All Risks of physical loss or damage insurance, including earthquake and flood, covering the Improvements, fixtures, moveable effects, now or hereinafter in, attached to or used in connection with the

Improvements with a policy limit not less than the full replacement value or repair costs of all Improvements; such policy shall also cover business interruption in the form of gross profits for a period of twelve (12) months, and shall contain a waiver of subrogation in favour of the Emphyteutic Lessor;

- 7.1.4 a Broad Form Boiler and Machinery insurance covering all electrical, mechanical, ventilation and pressure vessels; such policy shall also cover business interruption in the form of gross profits for a period of twelve (12) months, and shall contain a waiver of subrogation in favour of the Emphyteutic Lessor; and
- 7.1.5 a Comprehensive General Liability insurance with policy limit of not less than one million dollars (\$1,000,000) inclusive for bodily injury and property damage; such policy shall extend by its working or endorsement to cover all the liabilities assumed by the Emphyteutic Sub-Lessee under provisions of this Sub-Emphyteusis, and shall contain a cross liability clause.
- 7.2 The Emphyteutic Sub-Lessee shall deliver or cause to be delivered to the Emphyteutic Lessor throughout the Term, satisfactory evidence in the form of certificates of insurance showing that each such insurance policy is in full force and effect and shows the Emphyteutic Lessor as an additional insured, to the extent of its interest, together with certificates evidencing renewal.
- 7.3 Each of the aforesaid insurance policies shall contain an endorsement providing that no cancellation thereof shall be made unless a prior notice of at least sixty (60) days of such cancellation has been delivered to the Emphyteutic Lessor and each of the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any.
- 7.4 Nothing herein contained shall be construed as making the Emphyteutic Lessor responsible for any of the risks to be insured against and the Emphyteutic Sub-Lessee agrees to indemnify and save harmless the Emphyteutic Lessor in respect of all claims for bodily injury or death, property damage or other loss or damage arising from the conduct of any work by or any act or omission of the Emphyteutic Sub-Lessee or any assignee, agent, employee, contractor or licensee of the Emphyteutic Sub-Lessee but not including the Emphyteutic Lessor or its assignees, agents, employees, contractors or licensees.
- 7.5 The Emphyteutic Sub-Lessee shall supply the Emphyteutic Lessor no later than the date of expiry of an insurance policy with proof of the payment of the renewal premium and shall deliver or cause to be delivered to the Emphyteutic Lessor, no later than seven (7) days after the date of expiry of an insurance policy, written confirmation by the insurer or its agent that renewal of such policy has been effected and receipts of the insurer or its agent establishing the payment of such renewal premium.

- 7.6 Should the Emphyteutic Sub-Lessee fail to keep in force the policies of insurance during the Term, or to supply to the Emphyteutic Lessor the documents referred to in Section 7.5 hereof in accordance with the terms of the said Section 7.5, the Emphyteutic Lessor shall have the right, forthwith, to effect such insurance with one (1) or more insurance companies of its choice, at the expense of the Emphyteutic Sub-Lessee and to add the cost thereof together with interest thereon from the date of failure to make payment to the date of payment at the rate of three percent (3%) above the Prime Rate to the next Consideration payment due hereunder by the Emphyteutic Sub-Lessee to the Emphyteutic Lessor without prejudice to any other rights and recourses of the Emphyteutic Lessor herein or by law provided.
- 7.7 Subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors with respect to insurance matters, the Emphyteutic Sub-Lessee shall have the losses and proceeds under the policies of insurance on the Development referred to in Sections 7.1.1, 7.1.2, 7.1.3 and 7.1.4 made payable jointly to the Emphyteutic Lessor, the Emphyteutic Sub-Lessee and the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, as their respective interests may appear, to be used exclusively for the reconstruction or repair of the Improvements in accordance with the provisions of ARTICLE 8 hereof, and the Emphyteutic Lessor covenants to endorse any and all cheques representing proceeds of insurance in order that proceeds be used in accordance with the provisions of any security documentation in favour of the Emphyteutic Sub-Lessee's Hypothecary Creditors and the provisions hereof.
- 7.8 Any insurance coverage maintained by the Emphyteutic Sub-Lessee under this ARTICLE 7 shall in no manner restrict or limit the liabilities assumed by the Emphyteutic Sub-Lessee under this Sub-Emphyteusis.

ARTICLE 8 DESTRUCTION OR DAMAGE

- 8.1 Should the Improvements be partially destroyed or damaged but not to the extent of making the remainder of same unusable for the purpose for which they were originally constructed, this Sub-Emphyteusis shall remain in full force and effect and subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors with respect to insurance proceeds, the proceeds of any insurance shall be deposited in a joint bank account of a Canadian chartered bank selected by the Emphyteutic Sub-Lessee and approved by the Emphyteutic Lessor acting reasonably, in the name of the Emphyteutic Lessor, the Emphyteutic Sub-Lessee and the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, to be made available to the Emphyteutic Sub-Lessee for the sole purpose of repairing the Improvements, the Emphyteutic Sub-Lessee being

- obliged however to repair the Improvements whether insurance proceeds are sufficient or not.
- 8.2 Should the Improvements be totally destroyed or partially destroyed or damaged to the extent of making the remainder of same unusable for the purpose for which they were originally constructed, this Sub-Emphyteusis shall, subject to the provisions of Sections 8.12 and 8.13 hereof, remain in full force and effect and subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors with respect to insurance proceeds, the proceeds of any insurance shall be deposited in a joint bank account of a Canadian chartered bank selected by the Emphyteutic Sub-Lessee and approved by the Emphyteutic Lessor acting reasonably, in the name of the Emphyteutic Lessor, the Emphyteutic Sub-Lessee and the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, to be made available to the Emphyteutic Sub-Lessee for the sole purpose of reconstructing, repairing and replacing the Improvements, the Emphyteutic Sub-Lessee being obliged however to reconstruct, repair and replace the Improvements whether insurance proceeds are sufficient or not, the whole in accordance with the provisions hereinafter contained.
- 8.3 Notwithstanding Sections 8.1 and 8.2 above and subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors with respect to insurance proceeds, the Emphyteutic Sub-Lessee may invest the amount of such insurance proceeds in term deposits with such Canadian chartered bank, and the Emphyteutic Sub-Lessee alone shall determine the term of such investments. All interest on such proceeds will be disbursed in the manner set forth for the insurance proceeds in this ARTICLE 8.
- 8.4 The Emphyteutic Sub-Lessee shall cause the Improvements to be reconstructed, repaired or replaced as nearly as reasonably possible to at least the same size and to the same condition and to the same quality of construction as those existing immediately prior to the destruction or damage, all such work to be carried out in accordance with prevailing construction standards. The Emphyteutic Sub-Lessee shall commence the reconstruction, repair or replacement of the Improvements within a delay of either nine (9) months from the date of the destruction or damage or ninety (90) days after having obtained the insurance proceeds and the construction permit authorizing the Emphyteutic Sub-Lessee to proceed with the reconstruction, repair or replacement of the Improvements, whichever comes last (subject however to a maximum delay of twelve (12) months from the date of destruction or damage), and shall proceed as expeditiously as possible thereafter until completion of same.
- 8.5 Prior to undertaking such reconstruction, repair or replacement of the Improvements which were originally constructed, the Emphyteutic Sub-Lessee shall, subject to the provisions of Sections 8.12 and 8.13 and subject also to the then existing by-laws

and regulations of the City of Montréal or successor municipal government, supply to the Emphyteutic Lessor, within six (6) months from the date of destruction, proper architectural and engineering plans and specifications and the estimated cost of such reconstruction, repair, replacement or construction, and either construction contracts or construction management contracts with bonded contractors for at least forty percent (40%) of the value of such contracts for labour and materials and performance and completion of the work. The Emphyteutic Lessor shall have the right to approve the plans and specifications and the estimate to the extent that they must comply with the quality and cost standards set forth more fully in Section 8.4 hereof. The said plans and specifications and, if applicable, the estimate referred to in the two preceding sentences are hereinafter collectively referred to in this ARTICLE 8 as the "Relevant Plans and Specifications". If the Relevant Plans and Specifications and contracts indicate that the Improvements will be reconstructed, repaired and replaced, all in accordance with the provisions of Section 8.4, the Emphyteutic Lessor's approval shall not be unreasonably withheld and shall be given within sixty (60) days from the date of submission thereof. If the Emphyteutic Lessor does not approve the Relevant Plans and Specifications within said sixty (60) day-delay, it shall give reasons for its refusal and details therefor, together with the specific changes reasonably requested to be made to the Relevant Plans and Specifications, in which event the Emphyteutic Sub-Lessee shall re-design the Relevant Plans and Specifications and submit new Relevant Plans and Specifications for the Emphyteutic Lessor's approval within four (4) months of the date of refusal by the Emphyteutic Lessor of the first Relevant Plans and Specifications. If the Emphyteutic Lessor's approval is not given to the Emphyteutic Sub-Lessee's new Relevant Plans and Specifications in writing within sixty (60) days from the receipt of such new Relevant Plans and Specifications, then the matter shall be referred to arbitration in the manner provided for in ARTICLE 14 hereof, in which event the delays mentioned in Section 8.4 shall be extended by a period equal to (i) the time between the submission to arbitration and the time of the arbitration award and (ii) the time necessary for the Emphyteutic Sub-Lessee to modify the new Relevant Plans and Specifications to comply with the arbitration award, which time shall not exceed six (6) months after the time of the arbitration award.

- 8.6 Any variation of a material nature from the Relevant Plans and Specifications so approved by the Emphyteutic Lessor in the reconstruction, repair or replacement of the Improvements shall require a new approval on the part of the Emphyteutic Lessor and the provisions of Section 8.5 shall apply *mutatis mutandis*.
- 8.7 Subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors, the Emphyteutic Lessor and the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, shall, upon request, authorize the payment from the said joint bank account of insurance proceeds to the Emphyteutic Sub-Lessee from time to time as the reconstruction,

- repair or replacement of the Improvements in amounts equal to the extent of expenditures made for such reconstruction, repair or replacement of the Improvements, as set forth in the progress certificates of the work issued from time to time by the Emphyteutic Sub-Lessee's superintending architect or project manager less, however, a sum equal to the amount of the holdbacks specified in the contracts for such reconstruction, repair or replacement of the Improvements.
- 8.8 Prior to each disbursement, the Emphyteutic Sub-Lessee shall establish by a certificate of the superintending architect or the project manager that the balance of insurance proceeds is sufficient to cover all remaining costs and expenses of reconstruction, repair, replacement or construction, as the case may be, and, if not, the Emphyteutic Sub-Lessee shall forthwith invest in the reconstruction, repair, replacement or construction an amount equal to the shortfall.
- 8.9 The Emphyteutic Sub-Lessee shall obtain new insurance on the Improvements during the period of their reconstruction, repair and replacement, as the case may be, and for the remainder of the Term, and the provisions of ARTICLE 7 shall apply with regard to such new insurance and likewise in the same manner each time a loss occurs giving rise to a claim under any insurance policy.
- 8.10 If any privilege or legal hypothec shall have been registered against the Immovable for work done or materials supplied or by other persons engaged in connection with the reconstruction, repair or replacement of the Improvements, the Emphyteutic Lessor may require that there be held back from the monies to be paid to the Emphyteutic Sub-Lessee from said joint bank account an amount sufficient to satisfy the claim secured by such privilege or legal hypothec plus legal costs and interest; provided, however, that if the Emphyteutic Sub-Lessee shall in good faith and by appropriate proceedings, contest the validity or amount of any such privilege or legal hypothec and, if required by the Emphyteutic Lessor or any of the Emphyteutic Sub-Lessee's Hypothecary Creditors, give security satisfactory to the Emphyteutic Lessor and any such Emphyteutic Sub-Lessee's Hypothecary Creditors, without duplication, for the due payment of any such privilege or legal hypothec, plus legal costs and interest, in case it shall be held to be valid, the Emphyteutic Sub-Lessee shall be entitled to receive the entirety of the insurance proceeds in accordance with the provisions of this ARTICLE 8.
- 8.11 Should the insurance proceeds exceed the cost of reconstruction, repair or replacement of the Improvements, the Emphyteutic Lessor, subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, shall authorize payment of the amount of such excess to the Emphyteutic Sub-Lessee thirty (30) days after the completion of the work of reconstruction, repair or replacement of the Improvements.

- 8.12 Should the Improvements be totally destroyed or partially destroyed or damaged to the extent of making the remainder of same unusable for the purpose for which they were originally constructed, and if the Emphyteutic Sub-Lessee shall notwithstanding all due diligence be prevented for a period of three (3) years, subject to extension pursuant to Section 8.5, from proceeding with the reconstruction, repair or replacement of the Improvements as aforesaid by any Unavoidable Delay or otherwise, then each party may, if permitted by the Emphyteutic Sub-Lessee's Hypothecary Creditors, by notice in writing to be given to the other party and to the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any (which notice shall specify which of such causes prevented the reconstruction, repair or replacement of the Improvements), terminate this Sub-Emphyteusis and the obligations hereunder of both parties hereto and, in such event, subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors, the proceeds of the insurance payable with respect to such destruction or damage shall be apportioned between the Emphyteutic Lessor, the Emphyteutic Sub-Lessee and the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, in accordance with the provisions of Section 13.1.4 herein and the Emphyteutic Sub-Lessee shall at its cost and expense demolish and remove any remaining Improvements and restore the Immovable thereunder to its original state and condition as at the commencement of the Term, all to the satisfaction of the Emphyteutic Lessor, acting reasonably. The Emphyteutic Sub-Lessee shall not however reconstruct the Existing Improvements.
- 8.13 Notwithstanding anything to the contrary in this Deed, the Emphyteutic Sub-Lessee shall not be bound to reconstruct, repair and replace the Development as herein provided if the destruction or damage contemplated in Sections 8.2 and 8.4 takes place during the last three years of the Term, provided the Emphyteutic Sub-Lessee advises the Emphyteutic Lessor of its intention to terminate this Sub-Emphyteusis within sixty (60) days from the date of such destruction or damage, whereupon this Sub-Emphyteusis shall terminate as at the date of such destruction or damage and, in such event, subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors, the proceeds of the insurance payable with respect to such destruction or damage shall be apportioned between the Emphyteutic Lessor, the Emphyteutic Sub-Lessee and the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, in accordance with the provisions of Section 13.1.4 herein and the Emphyteutic Sub-Lessee shall at its cost and expense demolish and remove any remaining Improvements and restore the Immovable thereunder to its original state and condition as at the commencement of the Term, all to the satisfaction of the Emphyteutic Lessor.
- 8.14 Notwithstanding anything to the contrary in this Deed, the Emphyteutic Sub-Lessee shall not have the right to terminate this Sub-Emphyteusis in the case provided for in Sections 8.12 or 8.13 in

any event prior to the Termination Date (as such term is defined in the Facility Letter).

- 8.15 Except for the Facility Letter and any document delivered pursuant thereto, any trust deed, deed of loan or other instrument evidencing obligations secured by the Development shall be made to contain a clause or clauses authorizing that the insurance be taken and the monies payable thereunder be dealt with, used and paid, as provided for in accordance with the provisions of ARTICLE 7 and ARTICLE 8.

ARTICLE 9 ASSIGNMENT

- 9.1 Subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditor, the Emphyteutic Sub-Lessee shall have the right to sell, donate, transfer, assign, exchange or otherwise alienate (collectively, "Transfer"), at any time, all or a portion of the Emphyteutic Sub-Lessee's Interest. The Emphyteutic Lessor shall provide such certificates, documents and further assurances as the Emphyteutic Sub-Lessee shall reasonably require in connection with any assignment.
- 9.2 If the Emphyteutic Sub-Lessee Transfers all the Emphyteutic Sub-Lessee's Interest or any portion thereof, the acquirer shall:
- (i) with effect as of the date of such alienation, assume all or a portion, as the case may be, of the Emphyteutic Sub-Lessee's obligations under this Sub-Emphyteusis arising from and after the date of such alienation (including the obligation to pay the Consideration) with the understanding that if only a portion of the Emphyteutic Sub-Lessee's obligations are assumed by the acquirer, the Emphyteutic Sub-Lessee shall continue to be obligated hereunder for the portion of its obligations not assumed by the acquirer; and
 - (ii) undertake to cause its successor under this Sub-Emphyteusis to be bound by the provisions of this Section 9.2.
- 9.3 The Emphyteutic Sub-Lessee shall remain jointly and severally or solidarily liable with any acquirer of the Emphyteutic Sub-Lessee's Interest (including any Affiliate of the Emphyteutic Sub-Lessee) to the Emphyteutic Lessor for all of the Emphyteutic Sub-Lessee's obligations, the Emphyteutic Sub-Lessee hereby renouncing to the benefits of division and discussion.
- 9.4 Subject to the rights of the Emphyteutic Lessor's Hypothecary Creditors, the Emphyteutic Lessor may transfer all or a portion of the Emphyteutic Lessor's Interest upon prior written notice to the Emphyteutic Sub-Lessee, and should the Emphyteutic Lessor proceed with such transfer, the acquirer and subsequent acquirers shall:

- (i) with effect as of the date of such alienation, assume all of the Emphyteutic Lessor's obligations under this Sub-Emphyteusis arising from and after the date of such alienation;
- (ii) undertake to cause its successor under this Sub-Emphyteusis to be bound by the provisions of this Section 9.4; and
- (iii) the Emphyteutic Lessor shall remain solidarily liable with any acquirer or subsequent acquirer of the Emphyteutic Lessor's Interest (including any Affiliate of the Emphyteutic Lessor) to the Emphyteutic Sub-Lessee for all of the Emphyteutic Lessor's obligations.

ARTICLE 10 DEFAULTS AND REMEDIES IN CASE OF DEFAULT

10.1 Default of Emphyteutic Sub-Lessee

10.1.1 It is expressly agreed that if the Consideration, taxes and premiums for the insurance herein stipulated, or any part thereof, or any other sum payable by the Emphyteutic Sub-Lessee under this Deed which exceeds \$10,000, are and remain unpaid for a period of ten (10) Business Days after any of the dates on which the same have become due and payable, or in the case of the breach or non-fulfilment by the Emphyteutic Sub-Lessee of any of the other covenants herein contained and if such breach is continuing for a period of thirty (30) Business Days, or in the cases where, by reason of the default of the Emphyteutic Sub-Lessee, the Emphyteutic Lessor is by law entitled to terminate this Sub-Emphyteusis, then and in every such case but subject to the cure rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors, the Emphyteutic Lessor, may, at its sole option, give the Emphyteutic Sub-Lessee notice in writing of its intention to terminate this Sub-Emphyteusis, which notice shall specify the sum or sums of money or the covenants and conditions, the non-payment or the non-fulfilment of which is alleged, and which notice shall be deemed to have been adequately given if sent as provided in Section 20.3 hereof.

10.1.2 The Emphyteutic Lessor shall, at the same time as giving the aforesaid notice to the Emphyteutic Sub-Lessee, send to each Emphyteutic Sub-Lessee's Hypothecary Creditor who shall have advised the Emphyteutic Lessor at its address specified in Section 20.3, of its hypothec or charge by registered mail and who shall have registered a notice of its address pursuant to the provisions of Article 3022 of the *Civil Code of Québec*, a duplicate copy of such notice and such duplicate notice shall be deemed to have been adequately given if sent by registered mail and addressed to each such Emphyteutic Sub-Lessee's Hypothecary Creditor at the address indicated in such notice of address.

10.1.3 Should the Emphyteutic Sub-Lessee fail, within a period of twenty (20) days next ensuing after the giving of the notice referred to in

Section 10.1.1, to make good the breach or default complained of and to pay all monies and interest overdue and all expenses which the Emphyteutic Lessor has reasonably incurred by reason of such breach or default, then in that and in every such event, but subject to the cure rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors, this Sub-Emphyteusis and the Term created herein shall, subject to the provisions of Section 10.1.4, from and after the termination of the said period of twenty (20) days next ensuing after the giving of such notice, and upon the Emphyteutic Lessor giving to the Emphyteutic Sub-Lessee and to the Emphyteutic Sub-Lessee's Hypothecary Creditors written notice to that effect, become ended and terminated and all the rights of the Emphyteutic Sub-Lessee under this Sub-Emphyteusis shall be absolutely forfeited and shall lapse; and the Development shall become the property of the Emphyteutic Lessor, subject to the terms and conditions set out in the Emphyteusis, and it shall be lawful for the Emphyteutic Lessor immediately and without further demand to enter into possession thereof in the same manner as is provided for at the expiration of the Term and the Emphyteutic Sub-Lessee shall be obliged to execute such deed or deeds of acknowledgement of its default and of the termination of this Sub-Emphyteusis as the Emphyteutic Lessor may require.

- 10.1.4 If, at the time of the expiration of the twenty (20) day period and upon the giving of the notice of termination referred to under Section 10.1.3 above, there exists a hypothec or hypothecs registered against the Development in favour of any Emphyteutic Sub-Lessee's Hypothecary Creditor who has been given notice by the Emphyteutic Lessor in accordance with Section 10.1.2 and if the Emphyteutic Sub-Lessee shall fail within the said twenty (20) day period to remedy the default and to pay to the Emphyteutic Lessor all the monies and interest overdue and all expenses which the Emphyteutic Lessor may have reasonably incurred by reason of default, all as hereinabove provided in Section 10.1.3, the Emphyteutic Lessor shall give further notice to each such Emphyteutic Sub-Lessee's Hypothecary Creditor of such default(s) hereunder within thirty (30) days after the expiration of the aforesaid twenty (20) day period and the date of the giving of the notice of termination, calling upon each such Emphyteutic Sub-Lessee's Hypothecary Creditor to remedy such default either within a period of five (5) days after the giving of the last mentioned notice if the alleged default relates to the payment of monies and interest and taxes and the insurance provisions contained herein, or within a period of thirty (30) days after the giving of the said last mentioned notice in all other cases of default, and if such Emphyteutic Sub-Lessee's Hypothecary Creditor shall remedy such default and pay to the Emphyteutic Lessor all the monies and interest overdue and all expenses which the Emphyteutic Lessor may have reasonably incurred by reason of default, and if such Emphyteutic Sub-Lessee's Hypothecary Creditor has undertaken in writing to the Emphyteutic Lessor to avail itself of the provisions of Section 10.1.5 and to assume all of the obligations of the

Emphyteutic Sub-Lessee herein and become the Emphyteutic Sub-Lessee hereunder by taking in payment proceedings, or otherwise, such undertaking to be given within the said period of five (5) days or thirty (30) days, as the case may be, such default shall be deemed to be cured; but should no Emphyteutic Sub-Lessee's Hypothecary Creditor remedy the Emphyteutic Sub-Lessee's default and pay to the Emphyteutic Lessor all the monies and interest overdue and all expenses which the Emphyteutic Lessor may have reasonably incurred by reason of default, and give its written undertaking to the Emphyteutic Lessor as aforesaid, within the said period of five (5) days or thirty (30) days, as the case may be, all of the rights of such Emphyteutic Sub-Lessee and of each such Emphyteutic Sub-Lessee's Hypothecary Creditor and the latter's interest in the Development shall lapse and shall be absolutely forfeited and the Emphyteutic Lessor shall have the right to apply to the courts for an order to have such outstanding hypothec or hypothecs cancelled and radiated if such Emphyteutic Sub-Lessee's Hypothecary Creditor refuses to execute a release therefrom, the whole subject to the rights of the lender under the Facility Letter, which include a prohibition on termination of this Sub-Emphyteusis while the Facility Letter is outstanding and the ability to assign the Emphyteutic Sub-Lessee's Interest to a third party without the consent of the Emphyteutic Lessor.

- 10.1.5 If the Emphyteutic Sub-Lessee's Hypothecary Creditor shall take possession of the Development as emphyteutic sub-lessee under the circumstances contemplated in Section 10.1.4 or otherwise, the Emphyteutic Lessor agrees to execute, upon demand by such Emphyteutic Sub-Lessee's Hypothecary Creditor and at no expense to the Emphyteutic Lessor, such document or documents as each such Emphyteutic Sub-Lessee's Hypothecary Creditor may reasonably require in order to evidence and formally record the substitution of such Emphyteutic Sub-Lessee's Hypothecary Creditor for the Emphyteutic Sub-Lessee by reason of the Emphyteutic Sub-Lessee's default, provided, however, that any such document shall contain a "hold harmless" provision protecting the Emphyteutic Lessor against third parties in respect thereof.
- 10.1.6 In the event of default of the Emphyteutic Sub-Lessee under the terms of this Deed, which default cannot properly be cured by the payment of money or which does not relate to the Emphyteutic Sub-Lessee's obligation to keep the Development insured and the existence of such default is contested in good faith by the Emphyteutic Sub-Lessee, the Emphyteutic Lessor shall accept the undertaking of the Emphyteutic Sub-Lessee, or of the Emphyteutic Sub-Lessee's Hypothecary Creditor, to cure such default, if such undertaking is secured by a cash deposit, the terms and conditions of which to be satisfactory to both parties, or a performance bond of sufficient amount to secure performance until the default is cured or such other security satisfactory to the Emphyteutic Lessor acting reasonably, and provided such contestation is proceeded with

diligently and by the appropriate proceedings, whereupon the twenty (20) day delay referred to in Section 10.1.3 or the thirty (30) day delay referred to in Section 10.1.4, as the case may be, will be extended until a final decision of the courts and provided further that if the undertaking is given by any Emphyteutic Sub-Lessee's Hypothecary Creditor and such Emphyteutic Sub-Lessee's Hypothecary Creditor is HSBC Bank Canada or one of the six (6) largest Canadian chartered banks or a life insurance company registered to do business in Canada and acceptable to the Emphyteutic Lessor, no such performance bond shall be required.

- 10.1.7 Notwithstanding anything to the contrary contained in this ARTICLE 10, no default (other than a default which can be cured by the payment of money or which relates to the Emphyteutic Sub-Lessee's obligation to keep the Development insured) shall be deemed to come into effect or continue so long as the Emphyteutic Sub-Lessee or the Emphyteutic Sub-Lessee's Hypothecary Creditor are prevented from or delayed in diligently complying with the provisions of this Deed by Unavoidable Delay. Notwithstanding anything to the contrary contained in this ARTICLE 10, if the default (other than a default which can be cured by the payment of money or which relates to the Emphyteutic Sub-Lessee's obligation to keep the Development insured) is of a nature which cannot be completely cured within the delays mentioned in this ARTICLE 10, no default hereunder shall have occurred if the Emphyteutic Sub-Lessee or the Emphyteutic Sub-Lessee's Hypothecary Creditor shall have commenced curing the default within the delays mentioned in this ARTICLE 10 and have diligently proceeded therewith and have completed same within reasonable delay.
- 10.1.8 Notwithstanding the provisions of Section 10.1.4, the Emphyteutic Lessor agrees that if the Emphyteutic Sub-Lessee's default consists in whole or in part of the Emphyteutic Sub-Lessee's failure to repair, reconstruct or replace the Improvements, as the case may be, within the delays stipulated in ARTICLE 8, the delay afforded to each Emphyteutic Sub-Lessee's Hypothecary Creditor to remedy such default shall be extended for such reasonable time as may then be necessary to complete such work, provided such Emphyteutic Sub-Lessee's Hypothecary Creditor assumes all the obligations of the Emphyteutic Sub-Lessee hereunder in a form satisfactory to the Emphyteutic Lessor acting reasonably.
- 10.1.9 Notwithstanding anything contained in this ARTICLE 10, the Emphyteutic Lessor shall have the absolute and total discretion to exercise its rights hereunder with respect to any Emphyteutic Sub-Lessee's Hypothecary Creditor who has been given notice by the Emphyteutic Lessor in accordance with Section 10.1.2 without regard to the rank of the hypothec and charge in favour of any other Emphyteutic Sub-Lessee's Hypothecary Creditor and without regard to any dispute which may arise between the Emphyteutic Sub-Lessee's Hypothecary Creditors with respect to the exercise of their

rights under this ARTICLE 10, the whole subject to the rights of the lender under the Facility Letter.

10.1.10 Notwithstanding anything contained in this ARTICLE 10, in the event of any default by the Emphyteutic Sub-Lessee in its obligations under this Sub-Emphyteusis during the Term which has not been remedied as provided in this ARTICLE 10, the Emphyteutic Lessor may, but need not, take such action as is required to cure such default and any amounts expended by the Emphyteutic Lessor for such purpose shall be paid forthwith by the Emphyteutic Sub-Lessee to the Emphyteutic Lessor with interest thereon at the rate of three per cent (3%) above the Prime Rate from the date of default to the date of payment.

10.2 Default of Emphyteutic Lessor

10.2.1 The Emphyteutic Lessor shall be in default hereunder if any representation, warranty, covenant, obligation, confirmation, acknowledgement or certification made by the Emphyteutic Lessor and contained herein is false, inaccurate, breached or not fulfilled or performed by the Emphyteutic Lessor.

10.2.2 In the case of the breach or non-fulfilment by the Emphyteutic Lessor of any of the covenants or obligations herein contained and if such breach is continuing for a period of thirty (30) Business Days, or in the cases where, by reason of the default of the Emphyteutic Lessor, the Emphyteutic Sub-Lessee is by law entitled to terminate this Sub-Emphyteusis, then and in every such case, the Emphyteutic Sub-Lessee may, at its sole option, give the Emphyteutic Lessor notice in writing of its intention to terminate this Sub-Emphyteusis, which notice shall specify the covenants, the non-fulfilment of which is alleged, and which notice shall be deemed to have been adequately given if sent as provided in Section 20.3 hereof.

10.2.3 Should the Emphyteutic Lessor fail, within a period of twenty (20) days next ensuing after the giving of the notice referred to in Section 10.2.2, to make good the breach or default complained of and to pay all monies and interest overdue and all expenses which the Emphyteutic Sub-Lessee has reasonably incurred by reason of such breach or default, then in that and in every such event, this Sub-Emphyteusis and the Term created herein shall, from and after the termination of the said period of twenty (20) days next ensuing after the giving of such notice, become ended and terminated and all the rights of the Emphyteutic Lessor under this Sub-Emphyteusis shall be absolutely forfeited and shall lapse; the Emphyteutic Lessor shall be obliged to execute such deed or deeds of acknowledgement of its default and of the termination of this Sub-Emphyteusis as the Emphyteutic Sub-Lessee may require, the whole subject to the rights of the lender under the Facility Letter.

- 10.2.4 In the event of default of the Emphyteutic Lessor under the terms of this Deed, which default cannot properly be cured by the payment of money and the existence of such default is contested in good faith by the Emphyteutic Lessor, the Emphyteutic Sub-Lessee shall accept the undertaking of the Emphyteutic Lessor, to cure such default, if such undertaking is secured by a cash deposit, the terms and conditions of which to be satisfactory to both parties, or a performance bond of sufficient amount to secure performance until the default is cured or such other security satisfactory to the Emphyteutic Sub-Lessee acting reasonably, and provided such contestation is proceeded with diligently and by the appropriate proceedings, whereupon the twenty (20) day delay referred to in Section 10.2.3, will be extended until a final decision of the courts.
- 10.2.5 Notwithstanding anything to the contrary contained in this Section 10.2, no default shall be deemed to come into effect or continue so long as the Emphyteutic Lessor is prevented from or delayed in diligently complying with the provisions of this Deed by Unavoidable Delay. Notwithstanding anything to the contrary contained in this Section 10.2, if the default is of a nature which cannot be completely cured within the delays mentioned in this Section 10.2, no default hereunder shall have occurred if the Emphyteutic Lessor shall have commenced curing the default within the delays mentioned in this Section 10.2 and have diligently proceeded therewith and have completed same within reasonable delay.
- 10.2.6 Upon the occurrence of a default hereunder which is not cured or curable by the Emphyteutic Lessor, the Emphyteutic Sub-Lessee may, without in any way limiting its rights and recourses under law or its termination rights hereunder, exercise (i) its rights under the Option Agreement and/or (ii) its hypothecary rights and recourses under the Option Hypothec without any notice to the Emphyteutic Lessor or 9175-2246 Québec Inc.

ARTICLE 11 INDEMNIFICATION OF EMPHYTEUTIC SUB-LESSEE

- 11.1 If, during the Term, the Emphyteutic Sub-Lessee is disturbed in its enjoyment of the Immovable or restricted in any other way, it will not be entitled to call upon the Emphyteutic Lessor to defend or warrant it against such disturbance unless (i) it results from a default of the Emphyteutic Lessor under Section 10.2 hereof in which event the Emphyteutic Sub-Lessee shall have (a) the right to call upon the Emphyteutic Lessor to defend or warrant it against such disturbance, and (b) the rights and recourses set out in Section 10.2, or (ii) it is caused by proceedings (other than expropriation proceedings) involving the rights and interest of the Emphyteutic Lessor to the Immovable, in which latter event the Emphyteutic Sub-Lessee shall, until evicted therefrom, pay the Consideration in the same manner as

if such disturbance had not taken place; but, upon the Emphyteutic Sub-Lessee's eviction as determined by a final judgment of a court of competent jurisdiction, this Sub-Emphyteusis shall terminate without prejudice to the rights and recourses of the Emphyteutic Sub-Lessee in such event.

ARTICLE 12 TERMINATION

- 12.1 The Emphyteutic Lessor may terminate this Sub-Emphyteusis for the causes herein provided over and above all other causes provided by law and the right of the Emphyteutic Lessor to terminate this Sub-Emphyteusis shall not be restricted to the case where the Emphyteutic Sub-Lessee fails to pay any instalment of Consideration for a period of three (3) years. The Emphyteutic Sub-Lessee may terminate this Sub-Emphyteusis (i) where the Emphyteutic Lessor is in default pursuant to Section 10.2, (ii) in the situations contemplated in Sections 8.13 or 8.14, or (iii) upon the occurrence of a Bankruptcy Proceeding affecting the Emphyteutic Lessor. Notwithstanding the provisions of the *Civil Code of Québec*, there shall be no right of abandonment (*déguerpissement*) in favour of the Emphyteutic Sub-Lessee.
- 12.2 Except as otherwise specifically herein provided, at the expiration of this Sub-Emphyteusis or in the event of its termination for the causes herein provided or by law, the Emphyteutic Sub-Lessee shall surrender the Development to the Emphyteutic Lessor in good condition, free and clear of all Encumbrances save for Permitted Encumbrances as defined herein and the Encumbrances to which the Emphyteutic Lessor provided its consent to including all Encumbrances granted pursuant to the Facility Letter by the Emphyteutic Lessor, 9175-2246 Québec Inc. or the Emphyteutic Sub-Lessee (notwithstanding Article 1209 of the *Civil Code of Québec*) and neither the Emphyteutic Sub-Lessee, nor any of its successors or assigns, shall be entitled to any compensation whatsoever.

ARTICLE 13 EXPROPRIATION

- 13.1 Should the Development be partially expropriated by any authority having the power to expropriate, the proceeds of compensation for expropriation, subject to the prior rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors shall be dealt with as follows:
- 13.1.1 compensation paid in respect of the loss of any Consideration payable or to become payable by the Emphyteutic Sub-Lessee to the Emphyteutic Lessor, shall be paid to the Emphyteutic Lessor, and in the event that the Emphyteutic Lessor is so compensated, the obligation of the Emphyteutic Sub-Lessee to pay Consideration shall be reduced accordingly;

- 13.1.2 compensation for the loss of the value of the Immovable shall be paid to the Emphyteutic Sub-Lessee subject to the Emphyteutic Sub-Lessee giving security satisfactory to the Emphyteutic Lessor, of a value of not less than the amount so paid to the Emphyteutic Sub-Lessee, for the payment to the Emphyteutic Lessor at the termination of this Sub-Emphyteusis of the amount so paid to the Emphyteutic Sub-Lessee;
- 13.1.3 compensation for the loss of revenue of the Emphyteutic Sub-Lessee shall be paid to the Emphyteutic Sub-Lessee; and
- 13.1.4 compensation paid in respect of the Improvements shall firstly be used to pay any third party expenditures necessitated by such expropriation, the balance thereof being paid to Emphyteutic Sub-Lessee subject to the Emphyteutic Sub-Lessee giving security satisfactory to the Emphyteutic Lessor, of a value of not less than the amount so paid to the Emphyteutic Sub-Lessee, for the payment to the Emphyteutic Lessor at the termination of this Sub-Emphyteusis of the amount so paid to the Emphyteutic Sub-Lessee.
- 13.2 Should the Development be partially expropriated so as not to render the unexpropriated residue of same unusable for the purpose contemplated herein subject to the rights of the Emphyteutic Sub-Lessee's Hypothecary Creditors, the Emphyteutic Sub-Lessee shall start to restore the unexpropriated portion thereof within ninety (90) days of the expropriating party taking possession, using the expropriation awards or part thereof in the same manner as the insurance proceeds and subject to the conditions contained in ARTICLE 8 hereof insofar as they are applicable for the purposes of this Section.
- 13.3 Notwithstanding the foregoing, should the Development be totally expropriated or expropriated to such an extent as to render the unexpropriated residue of same unusable for the purpose contemplated herein, the proceeds or compensation for expropriation shall be dealt with as follows: that portion of the expropriation proceeds payable by the expropriating party relating to the value of the Immovable and any other sum owing with respect to the rights of the Emphyteutic Lessor hereunder shall be paid to the Emphyteutic Lessor and that portion of the expropriation proceeds payable by the expropriating party relating to the Improvements and the rights of the Emphyteutic Sub-Lessee hereunder shall be apportioned between the Emphyteutic Lessor and the Emphyteutic Sub-Lessee in accordance with the provisions set out above in Section 13.1.4.
- 13.4 If the expropriation award does not indicate what portion of the expropriation monies represents the fair market value of the Immovable taken or damages caused to the residue thereof, and what portion represents compensation for or damages to the Improvements, and if the Emphyteutic Lessor and Emphyteutic Sub-Lessee cannot agree to the division of expropriation monies as

between Immovable and Improvements, the determination thereof shall be submitted to the decision of arbitrators as set out in ARTICLE 14 hereof.

ARTICLE 14 ARBITRATION

- 14.1 Whenever this Deed provides for the determination of any matter by arbitration, same shall be settled as provided in this ARTICLE 14.
- 14.2 Arbitration proceedings may be commenced by a party (the "Initiating Party") giving notice to the other party (the "Responding Party"), naming an arbitrator setting forth its submission on the matter and requesting an arbitration thereof. The Responding Party shall, within ten (10) Business Days thereafter, either accept the submission of the Initiating Party and execute same or reject the submission and appoint an arbitrator by written notice to the Initiating Party. The two arbitrators so appointed shall within ten (10) Business Days thereafter select a third arbitrator acceptable to both.
- 14.3 Should the Responding Party fail to appoint an arbitrator within the delay set forth in Section 14.2, an arbitrator shall be appointed on behalf of the Responding Party by a Judge of the Superior Court of the Province of Québec, District of Montréal, on the application of the Initiating Party.
- 14.4 In the event that the two arbitrators shall fail to appoint a third arbitrator within ten (10) Business Days from the date of appointment of the last one so appointed, a third arbitrator shall be appointed by a Judge of the Superior Court for the Province of Québec in the District of Montreal on the application of both or either of the two arbitrators.
- 14.5 The arbitrators shall furnish the Emphyteutic Lessor and the Emphyteutic Sub-Lessee with a written decision within thirty (30) days after the date upon which the third arbitrator has been selected by them or appointed by the Court as provided in Section 14.4.
- 14.6 In the event of the death, resignation, incapacity, neglect or refusal to act of any arbitrator appointed under the provisions of this ARTICLE 14, and of such neglect or refusal continuing for a period of seven (7) days after notice thereof in writing has been given by any interested party, another arbitrator shall be appointed to replace such arbitrator by the party whose nominee he was, or by the two arbitrators if he had been appointed as the third arbitrator; and failing the making of such appointment within a further period of seven (7) days, the vacancy shall be filled by a Judge of the Superior Court of the Province of Québec in the District of Montréal on application by either party hereto.

- 14.7 The cost of the arbitration shall be borne by the parties hereto in accordance with the determination in this respect made by the arbitrators as part of their decision.
- 14.8 The award of the arbitrators or a majority of the board of arbitration shall be final and binding upon the parties, which hereby covenant, each with the other, that such dispute shall be so decided by arbitration alone and not by recourse to any court or by action at law other than as provided by the articles of the *Code of Civil Procedure* of the Province of Québec governing arbitration. The parties shall sign an appropriate submission to arbitration and the arbitrators shall be governed by the provisions of the articles of the *Code of Civil Procedure* of the Province of Québec governing arbitration.
- 14.9 The Emphyteutic Lessor and the Emphyteutic Sub-Lessee hereby renounce their right to contest the homologation of any decision by the arbitrators under this ARTICLE 14 and their right to appeal such homologation.

ARTICLE 15
REPRESENTATIONS AND WARRANTIES

15.1 Representations and Warranties of the Emphyteutic Sub-Lessee

The Emphyteutic Sub-Lessee does hereby declare and warrant to the Emphyteutic Lessor that:

- 15.1.1 It is a legal person organized and existing and has full power to execute and deliver this Sub-Emphyteusis and to perform its obligations hereunder. The execution, delivery and performance of this Sub-Emphyteusis by the Emphyteutic Sub-Lessee and the completion of the transactions contemplated hereby have been authorized by all necessary corporate and other action of the Emphyteutic Sub-Lessee, and this Sub-Emphyteusis has been executed by the Emphyteutic Sub-Lessee and constitutes a valid and binding obligation of the Emphyteutic Sub-Lessee enforceable against it in accordance with its terms.

15.2 Representations and Warranties of the Emphyteutic Lessor

- 15.2.1 The Emphyteutic Lessor does hereby declare and warrant to the Emphyteutic Sub-Lessee that:

- (a) It is a legal person organized and existing and has full power to execute and deliver this Sub-Emphyteusis and to perform its obligations hereunder. The execution, delivery and performance of this Sub-Emphyteusis by the Emphyteutic Lessor and the completion of the transactions contemplated hereby have been authorized by all necessary corporate and other action of the Emphyteutic Lessor, and this Sub-Emphyteusis has been executed by the Emphyteutic Lessor and constitutes a valid and binding obligation of the

Emphyteutic Lessor enforceable against it in accordance with its terms.

(b) Save and except as disclosed prior to the date hereof, to the Emphyteutic Sub-Lessee or the Emphyteutic Lessee's Hypothecary Creditors:

- (i) It does not have any Knowledge of receipt of any notice from any federal, provincial, municipal, community or other authority having jurisdiction over the Immovable and Existing Improvements of any non-compliance of the Immovable and Existing Improvements with any law, regulation, by-law, directive, order or other requirement of such authority relating to environmental matters;
- (ii) All taxes, surtaxes, rates, assessments, duties, levies, imposed or assessed by any taxing authority against the Immovable and Existing Improvements or any part thereof, if any, have been paid without subrogation for the period ending on the day immediately preceding the first day of the Term, and all federal, provincial and municipal tax returns required to be filed and paid or made as of the date hereof, have been so filed, paid or made;
- (iii) There are no judgments or orders of any court or tribunal outstanding related to or connected with the Immovable and Existing Improvements, nor is there any litigation, administrative proceeding, investigation or other legal action or claims (including any proceeding under any applicable bankruptcy or insolvency laws) pending or, to the knowledge of the Emphyteutic Lessor, threatened, against the Immovable and Existing Improvements;
- (iv) The Immovable and Existing Improvements comply with all Applicable Laws and Permitted Encumbrances;
- (v) To its knowledge, (i) no Hazardous Material is now or was formerly used, stored, generated, manufactured, installed, treated, discharged, disposed of or otherwise present at or about the Immovable and Existing Improvements or any property adjacent to the Immovable and Existing Improvements (except for cleaning and other products currently used in

connection with the routine maintenance or repair of the Immovable and Existing Improvements in full compliance with Environmental Laws) and no Hazardous Material was removed or transported from the Immovable and Existing Improvements, (ii) all permits, licenses, approvals and filings required by Environmental Laws have been obtained, and the use, operation and condition of the Immovable and Existing Improvements do not, and did not previously, violate any Environmental Laws, (iii) no civil, criminal or administrative action, suit, claim, hearing, investigation or proceeding has been brought or been threatened, nor have any settlements been reached by or with any parties or any liens imposed in connection with the Immovable and Existing Improvements concerning Hazardous Materials or Environmental Laws; and (iv) no underground storage tanks exist on any part of the Immovable and Existing Improvements; and

- (vi) No repairs, modifications or renovations have been made to the Immovable and Existing Improvements, except those which have been fully paid for.

ARTICLE 16 COVENANTS

16.1 Emphyteutic Sub-Lessee's Covenants

- 16.1.1 Notwithstanding any provisions of the *Civil Code of Québec* or any other Applicable Law, the Emphyteutic Sub-Lessee agrees, save as otherwise provided herein, to maintain (reasonable wear and tear excepted) the Development and all equipment, machinery and other facilities therein, in good order and condition, including all repairs, structural or otherwise, exterior or interior, and will repair, replace, rebuild or reconstruct the same or any part thereof which may become worn, dilapidated or destroyed, in whole or in part.
- 16.1.2 In order to monitor the performance of the Emphyteutic Sub-Lessee's obligations under Section 16.1 hereof, the Emphyteutic Lessor and any employee, servant or agent of the Emphyteutic Lessor shall be entitled at any reasonable time upon reasonable prior notice to enter and examine the state of maintenance, repair and order of the Development and all equipment and fixtures therein.
- 16.1.3 In the event of any material repairs or structural repair, replacement, rebuilding or reconstruction of the Development becoming necessary

(and if a governmental body or agency of competent jurisdiction orders any such material repairs, structural repair, replacement, rebuilding or reconstruction, such order shall be prima facie evidence that same have become necessary), the Emphyteutic Sub-Lessee shall perform the same but before commencing or causing to be commenced any work in that respect shall submit the plans and specifications therefor to the Emphyteutic Lessor for approval, which approval shall not be withheld or delayed so long as the proposed work will not have a material adverse effect on the value of the Emphyteutic Lessor's interest in the Development and shall be deemed to have been given unless the Emphyteutic Lessor notifies the Emphyteutic Sub-Lessee in writing, within sixty (60) days of its submission, or within such shorter delay as may be necessary to comply with an order of a competent governmental body or agency, of its refusal thereof. Notwithstanding the foregoing, the plans and specifications in respect of any material repairs, structural repair, replacement or rebuilding required by any governmental body or agency of competent jurisdiction shall be approved by the Emphyteutic Lessor unless the Emphyteutic Lessor shall not be satisfied with the proposed design or mode of construction on the grounds that such design or mode of construction, in the Emphyteutic Lessor's opinion acting reasonably, will have a material adverse effect on the value of the Emphyteutic Lessor's interest in the Development in which case the Emphyteutic Sub-Lessee shall modify such design or mode of construction so as to eliminate such material adverse effect on the Development. The provisions of Section 8.5 will apply *mutatis mutandis* to this Section 16.1.3. Forthwith after such approval has been obtained, the Emphyteutic Sub-Lessee shall proceed with such work with all reasonable diligence. Should such material repairs or structural repair, replacement, rebuilding or reconstruction be of such a minor nature as to not require any plans and specifications, same shall not be submitted for the Emphyteutic Lessor's approval.

- 16.1.4 In the event of the failure on the part of the Emphyteutic Sub-Lessee to comply with the provisions of this ARTICLE 16, and without prejudice to the Emphyteutic Lessor's right to terminate this Sub-Emphyteutic in accordance with ARTICLE 10, the Emphyteutic Lessor shall have the right but shall not be obliged to take such action as shall be reasonably required to remedy such failure on the part of the Emphyteutic Sub-Lessee provided that the Emphyteutic Lessor shall take no action under this Section unless it has given the Emphyteutic Sub-Lessee thirty (30) days' written notice of the failure complained of and the Emphyteutic Lessor's intention to remedy the same (or, in the case such failure is of such a nature that it could reasonably be expected to result in serious damage or harm to the Emphyteutic Lessor or to the Development, such shorter period of notice as shall be reasonable in the circumstances) and the Emphyteutic Sub-Lessee has not taken action in a diligent manner within the period of said notice to remedy such failure. Any costs reasonably incurred by the Emphyteutic Lessor in taking any such

action shall be immediately payable by the Emphyteutic Sub-Lessee to the Emphyteutic Lessor.

16.1.5 The Emphyteutic Sub-Lessee hereby further undertakes:

- (a) to refrain from carrying out, other than the Improvements any construction, work or other undertaking endangering the existence of the Immovable or diminishing the value thereof;
- (b) to not demolish the whole or any part of the Existing Improvements and the Improvements or any other construction or work without the Emphyteutic Lessor having given its prior written consent to a redevelopment project of equivalent or greater value according to plans and specifications and a timetable and in a manner previously approved in writing by the Emphyteutic Lessor acting reasonably;
- (c) to promptly give notice to the Emphyteutic Lessor of any material breach of Environmental Laws and any Environmental Condition;
- (d) at its sole cost and expense, to take or cause to be taken all actions necessary (i) to ensure that the Emphyteutic Sub-Lessee, and any other person for whose conduct the Emphyteutic Sub-Lessee is or may be held responsible, including any tenant of the Development, to comply at all times with all Environmental Laws, (ii) to promptly prevent or remove any Release or threat of Release of Regulated Materials at or from the Development, and remove any Environmental Condition at or from the Development, to comply with Environmental Laws, and (iii) to achieve any characterization, remediation or cleanup standards that are required pursuant to Environmental Laws; and
- (e) upon termination of the Sub-Emphyteusis, to remediate forthwith any Environmental Condition or Release or threat of Release of Regulated Materials in order that the Development comply with Environmental Laws.
- (f) to exhibit, upon written request by the Emphyteutic Lessor, within reasonable delay to the Emphyteutic Lessor and to such other persons as may be designated in writing by the Emphyteutic Lessor from time to time, the receipts establishing payment of any and all sums payable by the Emphyteutic Sub-Lessee or, if the Emphyteutic Lessor is required to make such payment, the Emphyteutic Sub-Lessee shall forthwith reimburse to the Emphyteutic Lessor the amount so paid by the Emphyteutic Lessor, the whole without prejudice to the Emphyteutic Lessor's rights hereunder.

ARTICLE 17
CONSTRUCTION PRIVILEGES OR LEGAL HYPOTHECS

- 17.1 If a privilege or a legal hypothec is registered against the Development in accordance with articles 2726 to 2728 of the *Civil Code of Québec*, the Emphyteutic Sub-Lessee shall forthwith take all reasonable steps to have the same discharged, provided, however, that the Emphyteutic Sub-Lessee shall have the right to contest by legal proceedings or in any other manner as it may deem suitable any such privilege or legal hypothec and in such event, the Emphyteutic Sub-Lessee may defer payment of the contested item, provided always that, if required by the Emphyteutic Lessor or the Emphyteutic Sub-Lessee's Hypothecary Creditors, if any, the Emphyteutic Sub-Lessee shall give security satisfactory to the Emphyteutic Sub-Lessee's Hypothecary Creditors for the due payment of any such privilege or legal hypothec (plus legal costs and interest) in case it shall be deemed to be valid, unless the Emphyteutic Sub-Lessee's Hypothecary Creditor shall be an Affiliate of the Emphyteutic Sub-Lessee, in which case such security shall be satisfactory to the Emphyteutic Lessor and the Emphyteutic Sub-Lessee's Hypothecary Creditors.

ARTICLE 18
**COVENANTS TO COMPLY AND CONFORM TO APPLICABLE
STATUTES, LAWS, ETC.**

- 18.1 The Emphyteutic Sub-Lessee shall during the Term comply with and conform in all material respects to the requirements of every applicable statute, law, by-law, regulation, ordinance and order from time to time or at any time in force, and affecting the condition, maintenance, use or occupation of the Development, and all equipment, fixtures and facilities therein. If the Emphyteutic Sub-Lessee defaults in the performance of its obligations under this Section 18.1 and subsequently achieves the required compliance and conformity within the delays required hereunder, such default shall be conclusively deemed to have been cured for all intents and purposes.

ARTICLE 19
COVENANT AS TO PAYMENT OF MORTGAGES

- 19.1 The Emphyteutic Sub-Lessee covenants and agrees that, during the construction of the Improvements, it will pay as and when the same fall due all amounts payable by the Emphyteutic Sub-Lessee under any Encumbrance of the Emphyteutic Sub-Lessee's Interest and will perform in all material respects all its other covenants under any such Encumbrance and will not suffer to exist any default thereunder.
- 19.2 Except for the Facility Letter and any document delivered pursuant thereto, the terms of any instrument securing indebtedness by way of Encumbrance of the Emphyteutic Sub-Lessee's Interest shall require

the Emphyteutic Sub-Lessee's Hypothecary Creditor or other encumbrancer to give the Emphyteutic Lessor notice of any default thereunder at the same time as that notice is given to the Emphyteutic Sub-Lessee.

**ARTICLE 20
GENERAL PROVISIONS**

- 20.1 All payments of the Consideration and other sums payable to the Emphyteutic Lessor by the Emphyteutic Sub-Lessee hereunder shall be made at the address of the Emphyteutic Lessor determined in accordance with the provisions of Section 20.3.
- 20.2 Within thirty (30) days from the date of the execution of any deed or instrument whereby any part of the Development is alienated or a charge, or privilege or conventional or legal hypothec is registered on the Development or any part thereof, the Emphyteutic Sub-Lessee shall, at its own expense, furnish the Emphyteutic Lessor with a registered copy of such deed or instrument.
- 20.3 Any notice, demand, consent, refusal, approval or request (hereinafter in this Section 20.3 referred to as "Notice") given, served, made or obtained, or required to be given, served, made or obtained hereunder shall be in writing and shall be given to each of the parties below by personal delivery or by telecopier which results in a written or printed Notice being given, addressed or sent as set out below or to such other address or number as may from time to time be the subject of Notice:

SYSCOR

6600 Côte des Neiges
Suite 225
Montréal QC H3S 2A9
Fax number: (514) 934-8099

Attention: President

SYSCOR II

6600 Côte des Neiges
Suite 225
Montréal QC H3S 2A9
Fax number: (514) 934-8099

Attention: President

With a copy to :

HSBC BANK CANADA

2001 McGill College Avenue
Suite 300
Montreal Québec H3A 1G1

Attention:, Assistant Vice President, Commercial Real Estate
Fax number: (514) 285-8638

Any Notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by telecopier with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the same day if effectively received prior to 5:00 pm (Montreal Time) and if not, on the Business Day next following the day it was effectively received, or if mailed as aforesaid, the fifth (5th) Business Day following the date of the mailing.

Either party may at any time advise the other party of a change of address by following the procedure established above.

Whenever herein any period of days following the giving of any Notice is specified for any purpose, in determining the date upon which such period shall end, there shall be excluded the day on which such Notice is given.

- 20.4 The present Sub-Emphyteusis shall enure to the benefit of and be binding upon the parties hereto, their successors and permitted assigns.
- 20.5 The Emphyteutic Sub-Lessee shall pay the cost of registration of this Deed and of four (4) copies thereof.
- 20.6 No waiver, release or modification of any condition or obligation hereunder by one party in favour of the other shall be valid unless made expressly in writing and signed by both parties. No waiver or series of waivers by the Emphyteutic Lessor shall be construed as a modification of any of the provisions hereof, and the receipt by the Emphyteutic Lessor of Consideration with knowledge of the breach of any covenant herein shall not be deemed the waiver of any such breach. No waiver by either party of any default made by the other party under this Deed shall be construed as a waiver of any other default which has been made or which may thereafter be made by either party unless so specified in writing.
- 20.7 In the event of any conflict, inconsistency or incompatibility between the provisions of this Deed and the provisions of any agreement entered into by and between the Emphyteutic Sub-Lessee and any one of 9175-2246 Québec Inc., 9175-2218 Québec Inc. and the Emphyteutic Lessor, the provisions contained in this Deed will prevail as between the Emphyteutic Sub-Lessee and the Emphyteutic Lessor to the extent of such conflict, inconsistency or incompatibility.

ARTICLE 21 ADJUSTMENTS

- 21.1 The parties agree that all adjustments for taxes, Consideration and other adjustable matters under this Sub-Emphyteusis have been made as of the date hereof.

**ARTICLE 22
LANGUAGE**

- 22.1 The parties hereby confirm their request that the present Deed be drafted in the English language.
- 22.2 *Les parties reconnaissent avoir requis que le présent acte soit rédigé en langue anglaise.*

**ARTICLE 23
PARTICULARS REQUIRED UNDER SECTION 9 OF THE ACT
CONCERNING DUTIES ON TRANSFERS OF IMMOVABLES (the "Act")**

- 23.1 For the purposes of the Act, the parties make the following declarations:
- 23.1.1 the names and addresses of the principal residences of the Emphyteutic Lessor and the Emphyteutic Sub-Lessee are as above stated in this Deed; and
- 23.1.2 according to the Emphyteutic Sub-Lessee and the Emphyteutic Lessor, there is no transfer, at the same time, of corporeal immovable and movables as provided for at Section 1.0.1 of the Act; and
- 23.1.3 the Immovable is located in the City of Montréal; and
- 23.1.4 the Emphyteutic Lessor and the Emphyteutic Sub-Lessee do hereby declare that the value of the consideration of the Immovable is the sum of five million sixty thousand dollars (\$5,060,000); and
- 23.1.5 the amount constituting the basis of imposition of the transfer duties is five million sixty thousand (\$5,060,000); and
- 23.1.6 the amount of the transfer duties, if applicable, would be the sum of ninety-seven thousand two hundred dollars (\$97,200); and
- 23.1.7 the present transfer of the Immovable is exempt from the payment of transfer duties pursuant to Section 19(g) of the Act.

THUS DONE AND PASSED at Montréal, Province of Québec, on the date first hereinbefore mentioned and remaining of record in the office of the undersigned Notary under her minute number Two Thousand Six Hundred Eighty-Seven----- (---2687---).

AND THE PARTIES, after having declared to have taken cognizance of these presents and having exempted the said notary from reading them or causing them to be read, have signed with and in the presence of the undersigned notary.

SYSCOR

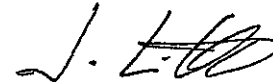
Per:



Jean Lamothe

SYSCOR II

Per:



Jean Lamothe


Manon Wolfe, Notary

TRUE COPY OF THE ORIGINAL
HEREOF REMAINS OF RECORD
IN MY OFFICE

