

IT IS HEREBY ADJUDGED  
and DECREED this is SO  
ORDERED.

The party obtaining this order is responsible for  
noticing it pursuant to Local Rule 9022-1.

Dated: September 03, 2008



*Randolph J. Haines*

RANDOLPH J. HAINES  
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

In re:

Mortgages Ltd.,

Debtor.

Chapter 11 Proceedings

Case No. 2:08-bk-07465-RJH

**INTERIM ORDER AUTHORIZING  
DEBTOR TO OBTAIN POST  
PETITION SECURED FINANCING  
PURSUANT TO 11 U.S.C. §§105, 361,  
362 AND 364 ON THE  
CENTERPOINT PROJECT;  
GRANTING SENIOR LIENS IN  
DEBTOR'S INTEREST IN  
CENTERPOINT NOTES AND DEED  
OF TRUST; AND SETTING FINAL  
HEARING PURSUANT TO  
BANKRUPTCY RULES 4001(b) AND  
(c) AND LOCAL BANKRUPTCY  
RULE 4001-4**

This matter came before the Court pursuant to the "Emergency Motion For Approval of Debtor-In-Possession Financing Re: Centerpoint In Accordance With Bankruptcy Code Sections 364(c) and (d)" (the "**Motion**") that was filed on August 20, 2008 by Mortgages Ltd., the Debtor-In-Possession in the above-captioned case ("**MLtd**" or the "**Debtor**"). Through the Motion, and pursuant to §§364(c) and (d) of the Bankruptcy Code, MLtd seeks approval of a senior secured loan (the "**DIP Loan**") in the amount of up to \$4.8 million from Stratera Portfolio Advisors, LLC ("**Stratera**") for use in connection with the preservation and protection of the Centerpoint Project in Tempe,

1 Arizona (the “Centerpoint Project”) which serves as collateral for a prepetition loan(s)  
2 (the “Centerpoint Loan”) provided by MLtd to Tempe Land Company (the  
3 “Centerpoint Borrower”). The terms and conditions of the DIP Loan are contained in  
4 the letter proposal dated August 29, 2008 (the “DIP Loan Proposal”), a copy of which is  
5 attached to this Order as Exhibit “A.” Pursuant to Bankruptcy Rule 4001(c)(2), MLtd  
6 seeks immediate approval and use of \$2.8 million of the DIP Loan on an interim basis on  
7 the terms as set forth in the DIP Loan Proposal pending the final hearing on the Motion  
8 (“Interim DIP Loan”).

9 The Court conducted a preliminary hearing on the Motion on August 26, 2008 and  
10 a continued hearing on August 28, 2008 (collectively the “Preliminary Hearings”).  
11 During the Preliminary Hearings the Court was advised that two companies were  
12 interested in providing the DIP Loan to the Debtor. The Court ordered the Debtor to  
13 determine which financing offer was, in the Debtor’s business judgment, the best offer.  
14 At a further hearing on September 2, 2008, the Court received evidence and heard  
15 argument of counsel in connection with the Motion. Based on the evidence and argument  
16 presented at the Preliminary Hearings and continued hearing, and based on all other  
17 germane matters of record in the case, the Court finds and concludes as follows:

18 A. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §1334,  
19 and the Motion presents a core proceeding pursuant to 28 U.S.C. §§157(b)(2)(A), (G),  
20 (M), and (O). The statutory predicates for the relief sought in the Motion are contained in  
21 Bankruptcy Code §§361, 362, 363, and 364.

22 B. Except for the Investors (both pass through and holders of MP fund  
23 interests) (“Investors”), adequate notice of the Motion has been provided to creditors and  
24 parties in interest in accordance with Bankruptcy Code §§102, 105, 361, 362, 363, and  
25 364 as well as Bankruptcy Rule 4001(c).  
26

1 C. An immediate need exists for MLtd to obtain up to \$2.8 million of the DIP  
2 Loan to fund items that are critical for the protection and preservation of the Centerpoint  
3 Project. Unless MLtd is able to obtain immediately up to \$2.8 million of the DIP Loan,  
4 the interests of MLtd in the Centerpoint Loan could be jeopardized.

5 D. MLtd is unable to obtain credit other than on a senior secured basis as  
6 provided by Stratera under the Interim DIP Loan, and the Interim DIP Loan provides the  
7 most favorable and predictable source of funds available to MLtd under present market  
8 conditions and considering the financial condition of MLtd. The terms and conditions of  
9 the Interim DIP Loan are fair and reasonable, were negotiated at arms length and in good  
10 faith, and MLtd and Stratera otherwise have acted in good faith in accordance with  
11 Bankruptcy Code §364(e).

12 E. The interests of other parties in the Centerpoint Loan are adequately  
13 protected by their existing lien or other interests in the Centerpoint Project as protected  
14 and enhanced by the improvements made possible by the DIP Loan.

15 F. Good cause has been shown for approval of the Interim DIP Loan on an  
16 interim basis as provided in this Interim Order. Accordingly,

17 **IT IS HEREBY ORDERED** as follows:

18 1. The Motion is granted on an interim basis, and MLtd is authorized to  
19 borrow immediately up to \$2.8 million of the DIP Loan according to the terms and  
20 conditions of the DIP Loan Proposal. The terms and conditions of the DIP Loan  
21 Proposal and this Interim Order will be (and are) valid obligations of MLtd and are  
22 enforceable against MLtd, provided however, that Stratera shall only have a security  
23 interest and lien in the Debtor's interest in the Centerpoint Loan and Centerpoint Project  
24 pursuant to this Interim Order, and shall not have a security interest or lien in the  
25 Investor's interests in the Notes and Deed of Trust on the Centerpoint Loan and  
26 Centerpoint Project.

1           2.     As security for repayment of all interim advances made under the Interim  
2 DIP Loan Stratera is hereby granted:

3           (a) A super administrative priority claim pursuant to 11 U.S.C. § 364(c) and (d);

4           (b) A senior first position lien against and assignment of the Debtor's interest in  
5 the senior preferred beneficial interest in the Debtor's first Deed of Trust (the "Deed of  
6 Trust") on the Centerpoint Project and the Debtor's interest in the Centerpoint Loan  
7 which is evidenced by two Promissory Notes. The lien of Stratera in the Debtor's interest  
8 in the Notes and the Deed of Trust shall be (and hereby is) senior to any and all liens,  
9 interests and rights of any other person which have a lien or an interest in Debtor's  
10 interest, including, but not limited to, Radical Bunny, L.L.C. ("RBLLC"); and

11           (c) The right to priority payment ahead of and before payment to the Debtor and  
12 RBLLC from Debtor's interest in the proceeds of the Centerpoint Loan before Debtor or  
13 RBLLC receive any net proceeds from the Tempe Land Company or the Centerpoint  
14 Project.

15           3.     Through their approval of this Order, the Centerpoint Borrower and  
16 guarantors of the Centerpoint Loan acknowledge and confirm that they have no offsets,  
17 defenses, or adverse claims of any kind or character with respect to the validity and  
18 enforceability of the DIP Loan and the lien interests obtained by Stratera in the  
19 Centerpoint Loan and in the Centerpoint Project.

20           4.     Until such time as all amounts due under the Interim DIP Loan are  
21 indefeasibly paid in full in cash to Stratera, MLtd will not in any way prime or otherwise  
22 adversely affect the liens in the Debtor's interest in the Centerpoint Loan and Centerpoint  
23 Project granted to Stratera under this Interim Order by offering a subsequent lender or a  
24 party in interest a superior or *pari passu* lien or claim in the Debtor's interest pursuant to  
25 sections 364(c), 364(d) or 507(b) of the Bankruptcy Code, or otherwise.

1           5. This Interim Order shall be sufficient and conclusive evidence of the  
2 validity, perfection, and priority of the Stratera's liens upon the MLtd's and RBLLC's  
3 interests in the Centerpoint Loan and the Centerpoint Project without the necessity of  
4 filing or recording any financing statement, deed of trust or other instrument or document  
5 which may otherwise be required under nonbankruptcy law. Stratera shall not be  
6 required to file any financing statement, deed of trust, notice of lien or similar  
7 instruments in any jurisdiction or filing office, or to take any other action in order to  
8 perfect the liens and security interests granted by or pursuant to this Interim Order or the  
9 DIP Proposal, as the case may be.

10           6. The lien interests granted to Stratera hereunder or under the terms of the  
11 DIP Loan Proposal shall not be subject to surcharge, pursuant to sections 506(c) or 105 of  
12 the Bankruptcy Code or otherwise, by MLtd or any other party, until the DIP Loan is  
13 indefeasibly paid in full in cash.

14           7. Upon the occurrence of an Event of Default under this Interim Order, as  
15 further defined in the DIP Loan Proposal and at all times thereafter, Stratera may, by  
16 written notice (by facsimile, email, hand delivery, or overnight mail) to MLtd, with a  
17 copy to the Centerpoint Borrower at the address listed in the DIP Loan Proposal and a  
18 copy to the Investors' Committee's counsel and Official Committee of Unsecured  
19 Creditors' counsel, subject to the cure periods in and as permitted by the DIP Loan  
20 Proposal:

21           (a) Terminate forthwith all or any portion of the Interim DIP Loan and the  
22 obligation of Stratera to make any further loans or advances;

23           (b) Declare all sums owing under the Interim DIP Loan to be immediately due  
24 and payable without presentment, demand, protest or any other notice of any kind, all of  
25 which are hereby expressly waived by MLtd; and  
26

1 (c) Take the actions and exercise the rights relating to the Debtor's interest as  
2 set forth in the DIP Loan Proposal subject to all the terms set forth therein and any  
3 change to the payment terms of the underlying loan requires unanimous consent under  
4 the Foreclosure Management Authority under the DIP Loan Proposal.

5 8. Notwithstanding the foregoing, and except as provided in the Foreclosure  
6 Management Authority under the DIP Loan Proposal, but without limiting any of  
7 Stratera's rights or remedies, Stratera shall not commence foreclosure on the Debtor's or  
8 Investors' interests in the Centerpoint Loan or the Centerpoint Project.

9 9. The automatic stay imposed under Section 362(a) of the Bankruptcy Code  
10 is hereby lifted to grant the liens and security interests in the Debtor's interest to Stratera  
11 contemplated by the DIP Loan Proposal and this Interim Order, and is further lifted to the  
12 extent of the exercise by Stratera of any rights or remedies under this Interim Order or the  
13 DIP Loan Proposal as to the Debtor's interest.

14 10. All amounts owing to Stratera under the Interim DIP Loan shall be and  
15 hereby are allowed superpriority ~~administrative~~ expense claims, in accordance with  
16 section 364(c)(1) of the Bankruptcy Code, and shall have priority over all administrative  
17 expense claims and unsecured claims against the Debtor, now existing or hereafter  
18 arising, of any kind or nature whatsoever, including, without limitation, any adequate  
19 protection related claims and any administrative expenses of the kinds specified in or  
20 ordered pursuant to Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b),  
21 546(c), 726 and 1114 of the Bankruptcy Code, to the extent permitted by applicable law,  
22 but subject to professional fee carve-outs, as described in the DIP Loan Proposal.

23 11. The provisions of this Interim Order shall survive entry of any order  
24 confirming any plan of reorganization or converting the Debtor's case to a Chapter 7  
25 proceeding, and the terms and conditions of this Interim Order and the priorities in  
26 payment, liens, and other protections provided to Stratera in the Debtor's interest will

1 continue in this case until all amounts owed under the Interim DIP Loan are paid  
2 indefeasibly and in full.

3 12. Stratera is entitled to the full protection of Bankruptcy Code §364(e) with  
4 respect to the amounts advanced under the Interim DIP Loan and the lien interests  
5 granted in this Interim Order in the event that this Interim Order is stayed, vacated,  
6 reversed, or modified on appeal.

7 13. The final hearing on the Motion will be held on October 16, 2008, at 10:30  
8 a.m., in the United States Bankruptcy Court, Courtroom 603, 230 North First Avenue,  
9 Phoenix, Arizona. The Debtor's Statement of Position regarding Debtor's authority to  
10 enter into the proposed DIP Loan shall be filed by September 19, 2008. Any objections  
11 and/or responses are due by October 3, 2008. The Debtor's Reply is due October 10,  
12 2008. Parties shall file a pre-trial statement, including an exhibit and witness list by  
13 October 13, 2008. The Debtor and Stratera shall file a set of loan documents fully  
14 documenting this DIP Loan on or before September 26, 2008.

15 14. This Interim Order is effective immediately upon entry.

16 15. A copy of this Interim Order, along with notice of the final hearing on the  
17 Motion shall be served by counsel for MLtd on all parties that have filed notices of  
18 appearance in the case, on the Office of the United States Trustee, on counsel for Stratera,  
19 and on all Investors that have or claim an interest in the Centerpoint Loan, both pass  
20 through investors and investors who have an interest in the MP funds which have an  
21 interest in the Centerpoint Loan.

22 **SIGNED AND DATED ABOVE.**

GRANTED

**EXHIBIT A**

**STRATERA PORTFOLIO ADVISORS**

PO Box 15608  
Phoenix, AZ 85060  
602.300.2430 Fax 480.990.0968

August 29, 2008

Richard Feldheim  
Mortgages Ltd.  
4455 East Camelback Road  
Phoenix, AZ 85018

Re: \$4,800,000 Debtor-in-Possession Loan

Dear Mr. Feldheim,

Stratera Portfolio Advisors ("Stratera") is pleased to present to Mortgages Ltd. ("Debtor") for your review the following term sheet for a loan (the "Loan") to be used in connection with a real estate development in Tempe, Arizona known as Centerpoint (the "Centerpoint Project") owned by Tempe Land Company ("TLC"). Please note that our commitment to provide financing is subject to and conditioned upon the satisfaction of the terms and conditions of this term sheet and to your agreement and execution below. Also, the transaction contemplated by this term sheet is subject to, among other things, (a) approval by the Bankruptcy Court; (b) execution of a guaranty agreement (the "Centerpoint Guaranty") with the principals of TLC (including their wives and personal trusts, where applicable), which shall also include agreements in which they hold Stratera harmless from any claims, causes of action and litigation that they may hold related to their dealings with Debtor, and other language such that repayment of and enforcement of the Loan by Stratera described below, or the portion of Debtor's loan to TLC (the "Underlying Loan") funded by the Loan from Stratera as set forth below, will not be challenged or hindered by TLC in any way whether through foreclosure or otherwise, all of which is acceptable to Stratera in its sole and absolute discretion; and (c) entry of interim and final orders in the Debtor's bankruptcy case (the "Interim Order" and the "Final Order" as the case may be): (i) with the Interim Order determining that the rights and interests of any creditor (including but not limited to Radical Bunny, L.L.C., "RBLLC") of the Debtor in the Debtor's existing first deed of trust (the "Deed of Trust") on the Centerpoint Project shall be subordinate to the liens in and assignment of Debtor's interest in the Deed of Trust to be granted to Stratera, and (ii) with the Final Order, subject to satisfactory notice to or consent from all other holders of the Deed of Trust (the "Investors"), determining that the Debtor as the agent for the Investors can bind them to the terms of this term sheet and other agreements relating to the Loan and the Deed of Trust including, but not limited to, subordinating the Investors' interests in the Deed of Trust and any cash flow to the lien of Stratera and Stratera being repaid in full prior to any payments to the Investors and otherwise agree to any controls, rights and remedies being granted herein to Stratera relative to the administration of the existing promissory notes and

Deed of Trust and an Intercreditor Agreement, acceptable to Stratera, executed by the Debtor on its own behalf and on behalf of the Investors subordinating their interests in the Deed of Trust and any cash flow from the Centerpoint Project in favor of Stratera. All Loan proceeds shall be used to fund the Centerpoint Project in Tempe, Arizona, pursuant to a budget to be approved by the Bankruptcy Court.

1. Loan Amount: Up to \$4,800,000 (the "Total Loan Amount"), which amount shall include all interest and fees payable to Stratera, to be advanced as follows: (i) if requested by Debtor, Stratera will advance up to \$2,800,000 (less applicable interest and fees) (the "First Advance") on an "emergency basis" within one business day after entry of the Interim Order by the Bankruptcy Court and execution of all loan documentation acceptable to Stratera pursuant to the terms and conditions herein, to be advanced on an as-needed basis pursuant to the approved use of funds. If required, Stratera will escrow the \$2,800,000 in its control the morning of the court hearing on this emergency funding; and (ii) the balance of \$2,000,000 (or \$4,800,000 if the emergency funding is not approved) (the "Final Advance") not less than fourteen business days of final approval of the loan transaction by the Bankruptcy Court through the entry of the Final Order.

2. Term: The Loan will mature at the earlier of 180 days from the date of Interim Approval, confirmation of a Chapter 11 Plan of Reorganization, dismissal or conversion of the case to Chapter 7. The Loan may be prepaid at any time; however any amount advanced by Stratera will earn interest for the full 180-day term regardless when advanced (except if Stratera is the take-out lender for the Loan).

3. Interest: Interest shall be due on the Total Loan Amount on a monthly basis based on a 360-day year at a rate equal to 12.5% per annum. At the closing of the \$2.8 million portion of the Loan, the entire amount of interest which shall become due on the total amount of the Loan shall be advanced by Stratera. In the event the Court does not grant Final Approval or for any other reason there is no closing on the \$2,000,000 portion of the Loan, Stratera shall credit the amount of unearned interest on such second portion of the Loan against the amount due to Stratera under the terms of the Loan. Upon the occurrence of any default of the Loan and continuing until the Loan is repaid in full, Stratera will be entitled to receive from Debtor default interest and late fees at the same percentages that Debtor is entitled to charge TLC for similar defaults pursuant to its loan documents including Article 8 of its Promissory Note.

4. Fees: Stratera shall be paid a "Commitment Fee" equal to 3.0% of the Total Loan Amount (\$144,000) which shall be earned upon Interim Approval and paid at closing of the emergency funding of the \$2.8 million.

5. Legal Fees and Closing Costs: Debtor is responsible and shall pay for all reasonable costs incurred in closing the Loan, including recording fees, a lender's policy, and any costs associated with environmental studies or surveys of the Centerpoint Project required by Stratera. Debtor also will reimburse Stratera for reasonable legal fees in an amount not to exceed \$35,000 relating to the negotiation, documentation and closing of this transaction.

6. Security and Documentation: Upon entry of the Interim Order, \$2.8 million of the Loan shall be: (a) entitled to the priority provided by 11 U.S.C. §364(c) and (d), including a super administrative priority (as further set forth below); (b) secured by a senior first position lien against and assignment of the Debtor's interest in the senior preferred beneficial interest in

the existing Deed of Trust and the Debtor's interest in the promissory notes relating to the Centerpoint Project senior to any and all liens, interests and rights of any other person, including RBLLC; and (c) entitled, pursuant to an initial Intercreditor Agreement to be executed by the Debtor on its behalf, to priority of payment ahead of and before payment to the Debtor and RBLLC and payment in full of the Loan before Debtor or RBLLC receives any net proceeds from TLC or the Centerpoint Project. Upon entry of the Final Order, the entire balance of the Loan, including all interest, fees and charges, shall be: (i) entitled to the super administrative priority set forth above in subsection (a) of this section; (ii) secured in the manner set forth above in subsection (b) of this section and further secured by a senior first position lien against and an assignment of a senior preferred beneficial interest in the Investors' interest in the Deed of Trust on the Project to be granted by the Debtor pursuant to the Debtor's existing contractual rights and powers if approved by a court order entered as part of the Final Order; and (iii) entitled to the priority of payment of the Loan, set forth in subsection (c) of this section, ahead of and before payment to the Debtor, the Investors and RBLLC. As such, Stratera's interest in the Deed of Trust shall equate to a super priority first lien senior to Debtor and RBLLC, and, if approved by the Final Order, all Investors, none of whom will receive any proceeds whatsoever from the Centerpoint Project or TLC until and unless the Stratera Loan is repaid in full. Stratera shall additionally have senior priority participation in any and all security, collateral, assignments and/or guaranties that Debtor possesses in relation to this loan and project. Stratera shall not be obligated to and will not make the Final Advance of \$2,000,000 unless and until entry of the Final Order approving the granting of the liens against and assignment of the Investor's interests in the Deed of Trust on and notes relating to the Centerpoint Project.

7. Defaults and Remedies: Subject to the limitations set forth below, Stratera's senior priority interests shall entitle it to exercise all rights and remedies of Debtor upon any Payment Default by TLC. A "Payment Default" shall consist solely of (i) any monetary default meaning a failure to pay at maturity of the Loan the amount of the Loan hereunder which is re-loaned to TLC by Debtor (and any money re-loaned by the Debtor to TLC will be repaid by TLC upon maturity of the Loan), or (ii) the failure of TLC to pay within 30 days after the same is due for any work done on the Centerpoint Project after the Loan is made for which funds are advanced to TLC by Debtor for the payment of such work subject to the normal right of TLC to withhold payment in accordance with its contracts for any work not properly performed or for punch list items or normal retentions. If TLC incurs a Payment Default on its loan to Debtor, Debtor will have a 30 day cure period (the "First Cure Period") to obtain sufficient funds to satisfy its current obligations to Stratera or to repay the loan from Stratera or otherwise cure any other default (it being understood that Stratera will still be entitled to retain any default interest and late fees due prior to the cure).

If no Cure has been effected during the First Cure Period, then Debtor will immediately and diligently pursue (at Debtor's cost) all rights, remedies and enforcement actions that it is allowed to pursue against TLC pursuant to the loan documents, with no forbearance unless approved by Stratera. Stratera will be entitled to demand that any allowed action be pursued if not already being pursued by Debtor. If Debtor fails to diligently pursue all required enforcement actions or fails to commence any action, permitted by law, demanded by Stratera within five days of the date of that demand or if the Loan has not paid in full within 90 days from the end of the First Cure Period, then Stratera shall have the authority for itself, the Debtor and Investors to immediately prosecute any and all enforcement actions itself, including but not limited to the power to select a substitute trustee under the terms of the Deed of Trust and commence and complete the foreclosure process under applicable Arizona law. (This authority

is referred to as "Foreclosure Management Authority"). Notwithstanding the Foreclosure Management Authority, Stratera will not have the right to foreclose out the subordinated interests of the Debtor or the Investors in the Centerpoint Project. In the event of a foreclosure of the Deed of Trust, title to the property will vest in Stratera, the Debtor, and the Investors, according to their respective interests in the Centerpoint Loan, and subject to the senior interest of Stratera provided in the Final Order.

In the exercise of its Foreclosure Management Authority, Stratera shall: (A) act as agent and fiduciary for itself, Debtor, RBLLC and the Investors and shall exercise that authority in good faith on their collective behalf; and (B) not have authority to undertake Major Decisions (as defined below) without either (i) the unanimous consent of Stratera, Debtor, RBLLC and counsel for the Investor Committee for certain decisions ("Unanimous Consent") or (ii) just the consent of Stratera plus either RBLLC or counsel for the Investor Committee ("Partial Consent"), as set forth below. The Debtor, RBLLC and the Investors shall have the right to pay the Loan in full at any time after the Stratera has obtained Foreclosure Management Authority through the date of disposition of the Centerpoint Project to an unrelated third party (the "Second Cure Period"). All rights of Debtor and the Investors under the Deed of Trust and their notes, including all rights to payment and enforcement shall be reinstated following payment in full of the Loan prior to the expiration of the Second Cure Period. The "Major Decisions" that shall require Unanimous Consent are: (i) any credit bid at a foreclosure sale below an agreed upon minimum bid, which is tentatively established at \$100 million but may be changed in the loan documents or later with Investor Consent, (ii) any sale of all or a material portion of the assets or equity of TLC or the Centerpoint Project, except a trustee's sale of the entire Centerpoint Project conducted pursuant to Arizona law, (iii) any release of TLC or any material portion of the Centerpoint collateral or guarantors, or (iv) any other provisions included in the loan documents, or ~~(v)~~ any settlement with the Debtor or material change in the existing loan documents with the Debtor or the documents for the Loan which affect the rights of the Investors. The Major Decisions which require Partial Consent are any material decision in any TLC bankruptcy proceeding (to be defined in the loan agreement).

TLC and any of its principals and guarantors of the Loan shall have the right to cure and reinstate the Debtor's notes and Deeds of Trust and obtain cancellation of any trustee's sale scheduled by the Debtor or Stratera based upon any Payment Default on the Loan by paying in full the amount of the Loan, including all interest, fees and costs, due to Stratera prior to completion of that trustee's sale notwithstanding any credit bid or notice of default in an amount in excess of the amount due to Stratera with the parties acknowledging that notwithstanding the acceleration of the Loan and the Underlying Loan due to a default under the Loan, the cure of any default under the Loan prior to any trustee's sale or judicial sale and applicable redemption period (if a judicial foreclosure ensues) will place the Debtor and TLC in the status quo with each retaining its claims, rights, offsets and defenses against the other. For purposes of further explanation and illustration only: (i) if the Loan defaults due to it not being paid prior to its maturity; (ii) a foreclosure ensues whereby the Loan and the Underlying Loan to TLC are accelerated; (iii) the Loan is paid off in full prior to a foreclosure and the extinguishment of any redemption rights; then the issues concerning TLC's default under the Underlying Loan will be reserved and Debtor and TLC will be in the status quo they were prior to the funding of the Loan. TLC, its principals and guarantors shall waive and release Stratera from any and all claims and defenses associated with or arising from the relationship with the Debtor which may bear on Stratera's right to enforce any terms of the Deed of Trust, loan or guarantees.

The loan documents shall include provisions in which the Debtor on its behalf and, to the extent it is contractually permitted to do so, on behalf of the Investors, and, RBLLC waive, release and indemnify Stratera from any and all claims which may arise or they may obtain as a result of Stratera's exercise of its rights and duties in the exercise of the Foreclosure Management Authority except claims based on the gross negligence, willful misconduct, breach of fiduciary duty, or fraud by Stratera.

To the extent that proceeds (after collection-related expenses) are realized from the Centerpoint Loan, the parties agree that Stratera shall receive repayment of amounts due under the Stratera Loan before Debtor or RBLLC receives any net proceeds and if the Final Order so provides before the Investors receive any net proceeds. Once the obligations to Stratera are fully satisfied, it shall return all management authority and rights to Debtor (or its successors).

The Intercreditor Agreement and documentation with the Centerpoint parties will allow any of them to fully satisfy the obligations to Stratera and to thereby terminate its Foreclosure Management Authority, and thereby restore it to Debtor or its successors. The loan documentation between the Debtor and TLC and related Centerpoint parties will be amended and modified to provide that any Payment Default on the Loan shall also constitute a default under those instruments entitled the Debtor and, upon the conditions set forth above, Stratera to foreclose under the terms of the Deed of Trust subject to the cure rights of TLC set forth herein. Those agreements shall be further modified to provide that TLC shall be required to pay (a) upon entry of the Interim Order, the portion of the indebtedness due to the Debtor (but not the Investors) under its separate instruments with the Debtor on the dates and according to the terms set forth in this term sheet and shall make all payments directly to Stratera until the Loan has been paid in full; and (b) upon entry of the Final Order, the portion of the indebtedness due to the Debtor under its separate instruments with the Debtor on the dates and according to the terms set forth in this term sheet and shall make all payments directly to Stratera until the Loan has been paid in full.

Stratera will additionally be allowed a super-priority administrative claim, pursuant to 11 U.S.C. §364(c)(1), against all other general asset of the Debtor senior to the rights of all other creditors, including any liens or rights to be granted to RBLLC under any settlement with the Debtor subject only to a \$750,000 professional fee carve-out. The Loan documentation, including but not limited to any form of order required from the Bankruptcy Court, shall be acceptable to Stratera and its attorneys in their sole discretion to properly record and secure the Loan in accordance with the foregoing. The Loan Documents will contain a dispute resolution mechanism (reasonably acceptable to Stratera, the Debtor, RBLLC, and the Investors) to resolve, among other things, disagreements over Major Decisions.

8. Miscellaneous Conditions. Stratera will fund the initial \$2.8 million of the Loan on the basis of this term sheet and following the entry of the Interim Order. Stratera's obligation to close the balance of the Loan will be subject to completion of documentation and due diligence including, but not limited to completion to Stratera's sole satisfaction of: (i) an Intercreditor Agreement acceptable to Stratera but subject to objections by RBLLC and the Official Investor's Committee in the Debtor's bankruptcy case (which objections, if any will be resolved by the Bankruptcy Court); (ii) all environmental requirements of Stratera, showing no unresolved environmental issues or concerns; (iii) acceptable title, ALTA survey and title insurance; (iv) acceptable property and liability insurance; (v) compliance with local lien and other laws; (vi) review and approval of the use of funds; (vii) review of all agreements, records,

accountings and other documentation of any and all sort related to the Centerpoint transaction; (viii) feasibility of repayment; and (ix) other conditions reasonably required by Stratera or its counsel.

9. **Certifications and Acknowledgments:** As evidenced by its signature below, Debtor certifies and/or acknowledges that: (i) it is represented by competent legal counsel experienced in transactional real estate; (ii) this term sheet is not intended to be comprehensive but merely presents an outline of the terms and conditions preliminarily agreed to between the parties, which terms and conditions are subject to review and advice from Stratera's counsel; (iii) the terms, conditions and obligations of this term sheet, and any potential litigation related thereto, shall be construed and governed in accordance with the laws of Arizona; (iv) unless specified otherwise, Stratera's "approval", "opinion", "satisfaction", "review", "verification", "determination" or "acceptance" of any condition, submission, requirement or other act under this term sheet shall be deemed to be at Stratera's sole and absolute discretion prior to the initial funding of the Loan, and its reasonable discretion thereafter, and Debtor waives any and all rights to apply to any court of law or equity to challenge such discretion; and (v) the parties will indemnify, hold harmless and defend each other against any and all claims for brokerage commissions or referral/finders fees and all related legal fees and costs that arise in connection therewith except as otherwise provided in this term sheet.

Debtor shall have been deemed to accept and be obligated by the terms and conditions of this term sheet once it has executed below and returned a copy to Stratera by fax or email. This term sheet may not be presented to any third parties or relied upon by same unless it is fully executed and returned to Stratera.

We look forward to an expeditious closing.

Very truly yours,

STRATERA PORTFOLIO ADVISORS

By: /s/ Doug Smith

Doug Smith  
Manager

ACCEPTED:

Mortgages Ltd., an Arizona corporation

By:

Richard Beldhiem, President

Dated: \_\_\_\_\_

AGREED TO BY:

Tempe Land Company, LLC

By [Signature]  
Kenneth Losch, Manager

Dated: \_\_\_\_\_

By [Signature]  
David Dewar, Manager

Dated: 8.29.0

GRANTED

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SUBCONTRACTOR/VENDOR	AMOUNT	REASON
Stafford Crane	98,759.00	Necessary for security, safety and workers to provide access to Tower 2 via outside elevator.
HACI - Supplier	650,000.00	Necessary to pay supplier \$450k to get cooling tower operational and \$200k to HACI to finish air conditioning system to protect asset.
APS - Past due	29,434.66	Necessary to ensure safety and appropriate environmental conditions for asset.
APS - August Estimate	20,000.00	Necessary to ensure safety and appropriate environmental conditions for asset.
American Window Installers - Past due and partially funded	835,980.00	Necessary to enclose building shell to preserve assets.
American Window Installers - August Estimate	355,000.00	Necessary to enclose building shell to preserve assets.
Site Security - Past Due	22,306.05	To provide site security.
Site Security - August	11,215.80	To provide site security.
Insurance - August	28,361.00	Pollution insurance policy.
Insurance - August	1,684.00	Liability insurance policy.
Waste Management - Past due	12,175.64	Necessary to ensure site safety.
Waste Management - August estimate	2,958.89	Necessary to ensure site safety.
A - Company - August estimate	7,000.00	Onsite toilets.
Construction Payroll 8/1	56,782.00	To maintain site safety and security as well as coordinate enclosing building shell.
Construction Payroll 8/15	41,736.49	To maintain site safety and security as well as coordinate enclosing building shell.
Mobile Mini Construction Trailer - Previous Months	2,416.02	Current on site office for construction management.
Mobile Mini Construction Trailer - August	805.34	Current on site office for construction management.
Mobile Force Fueling - August	400.00	Refueling rental equipment.
Cox Communications - August Estimate	1,500.00	Phone and Internet communications for construction and sales staff.
DIP Lender	600,000.00	6 month Interest Reserve @ 15% + 5 points on \$4.8m loan.
Emergency Funding	2,778,494.89	
<b>SUBCONTRACTOR/VENDOR</b>	<b>AMOUNT</b>	<b>REASON</b>
Essential soft costs	138,212.00	Essential soft cost.
Essential contract labor	111,596.00	Essential contract labor.
APS - September	30,000.00	Necessary to ensure safety and appropriate environmental conditions for asset.
Waste Management - September	11,000.00	Necessary to ensure site safety.
Mobile Force Fueling - September	400.00	Refueling rental equipment.
Mobile Mini Construction Trailer - September	800.00	Current on site office for construction management.
A - Company - Past due	60,051.00	Onsite toilets.
A - Company - September	7,000.00	Onsite toilets.
Cox Communications - September	1,500.00	Phone and Internet communications for construction and sales staff.
American Window Installers - September Estimate	250,000.00	Necessary to enclose building shell to preserve assets.
Construction Payroll 8/29 estimate	55,000.00	To maintain site safety and security as well as coordinate enclosing building shell.
Construction Payroll 9/12	61,787.00	To maintain site safety and security as well as coordinate enclosing building shell.
Sales Payroll Last 3 months	76,428.00	To maintain Sales Center staffing.
Sales Payroll 8/1	12,738.46	To maintain Sales Center staffing.
Sales Payroll 8/15	12,738.46	To maintain Sales Center staffing.
Sales Payroll 8/29	12,738.46	To maintain Sales Center staffing.
Sales Payroll 9/12	12,738.46	To maintain Sales Center staffing.
Sales Payroll 9/26	12,738.46	To maintain Sales Center staffing.
Sales Center Rent Last 3 months	31,015.32	To pay Sales Center rent.
Sales Center Rent - August	10,338.44	To pay Sales Center rent.
Sales Center Rent - September	10,338.44	To pay Sales Center rent.
Workmans Compensation Insurance - Past Due	90,610.00	To cover construction employees.
Site Security - September	11,215.80	To provide site security.
Overdrafts - TIC	52,377.00	Costs already incurred to preserve asset.
Overdrafts - TCC	30,436.00	Costs already incurred to preserve asset.
Insurance - September	28,361.00	Pollution insurance policy.
Insurance - September	1,684.00	Liability insurance policy.
License	1,200.00	Contractors License Bond.
Construction Payroll 9/26	59,833.00	To maintain site safety and security as well as coordinate enclosing building shell.
Stafford Crane - September	14,636.00	Necessary for security, safety and workers to provide access to Tower 2.
DIP Lender	400,000.00	\$75m DIP Financing Break Fee
Contingency/unforeseen emergency costs	400,000.00	\$50k per week for 8 weeks.
<b>Additional Funding</b>	<b>2,009,511.31</b>	
<b>Total Funding</b>	<b>4,788,006.20</b>	