

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE BANKRUPTCY OF MAHAL VENTURE
CAPITAL INC., OF THE CITY OF BRANTFORD, IN THE PROVINCE OF
ONTARIO**

MOTION RECORD OF SANTOKH MAHAL
(Returnable March 9, 2022 at 10:00am)

January 20, 2022

DICKINSON WRIGHT LLP
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Lawyers for Santokh Mahal

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE BANKRUPTCY OF MAHAL VENTURE
CAPITAL INC., OF THE CITY OF BRANTFORD, IN THE PROVINCE OF
ONTARIO**

NOTICE OF MOTION

SANTOKH MAHAL, will make a motion to Justice McEwen of the Commercial List on March 9, 2022 at 10:00 a.m. by videoconference.

THE MOTION IS FOR:

- (a) a declaration that the property acquired by Mahal Venture Capital Inc. ("**MVC**"), as purchaser, pursuant to an agreement of purchase and sale between it and Aquabella Bayside Toronto Inc., as vendor (the "**Vendor**") dated August 3, 2017 (the "**APS**") is held in trust for the benefit of Santokh Mahal ("**Santokh**") and is not divisible among creditors of MVC;
- (b) costs of this motion, plus applicable taxes; and,
- (c) such further and other relief as counsel may request and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- (a) Pursuant to the APS, MVC is the named purchaser of a pre-construction condominium unit at the property municipally known as Suite GPH1, 118 Merchants' Wharf, in Toronto, Ontario (the "**Unit**") from the Vendor;

- (b) MVC entered into the APS as trustee for the benefit of Santokh Mahal pursuant to a trust agreement between MVC and Santokh dated July 7, 2017;
- (c) The purchase price under the APS is \$6,618,000.00, payable in four deposits (the “**Deposits**”) each in the sum of \$330,900.00, with the balance due on closing;
- (d) To date, Santokh has advanced, or caused to be advanced on his behalf, deposits totalling \$1,323,600.00 to MVC’s bank account;
- (e) Santokh advanced the funds to MVC for the specific purpose of paying the Deposits to the Vendor’s solicitor, in trust, under the APS, as trustee for Santokh’s benefit;
- (f) Escrow closing of the APS is currently scheduled for March 29, 2022;
- (g) Section 67(1)(a) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3; and,
- (h) Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion

- (a) The affidavit of Santokh Mahal sworn January 19, 2022; and,
- (b) Such further and other evidence as counsel may advise and this Honourable Court may permit.

January 20, 2022

DICKINSON WRIGHT LLP

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Commerce Court Postal Station
Toronto, ON M5L 1G4
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Lawyers for Santokh Mahal

TO: **SERVICE LIST**

IN THE MATTER OF THE BANKRUPTCY OF MAHAL VENTURE CAPITAL INC., OF THE CITY OF BRANTFORD, IN
THE PROVINCE OF ONTARIO

Estate File No. CV-32-2782563

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Lawyers for Santokh Mahal

TAB B

Estate File No. CV-32-2782563

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE BANKRUPTCY OF MAHAL VENTURE
CAPITAL INC., OF THE CITY OF BRANTFORD, IN THE PROVINCE OF
ONTARIO**

AFFIDAVIT OF SANTOKH MAHAL
(Sworn January 19, 2022)

I, **SANTOKH MAHAL**, of the City of Mississauga, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am the moving party on this motion and the beneficiary under the Trust Agreement, as defined below. As such, I have personal knowledge of the matters and facts to which I hereinafter depose. Where my knowledge is based upon information and belief, I have indicated the source of my information and believe it to be true.

2. I swear this affidavit in support of my motion for, among other things, a declaration that the property acquired by Mahal Venture Capital Inc. ("**MVC**") pursuant to the APS, as defined below, is held in trust for my benefit and is not divisible among creditors of MVC.

A. The APS

3. Pursuant to an agreement of purchase and sale dated August 3, 2017 (the "**APS**") between MVC, and Aquabella Bayside Toronto Inc., as vendor (the "**Vendor**"), MVC is the named purchaser of a pre-construction condominium unit at the property

municipally known as Suite GPH1, 118 Merchants' Wharf, in Toronto, Ontario (the "Unit"). A copy of the APS is attached as **Exhibit 1**.

4. MVC entered into the APS to take title to the Unit as trustee for my benefit. MVC's interest under the APS was always intended to be that of trustee for my benefit. The trust arrangement is evidenced by a trust agreement between me, as beneficial owner, and MVC, as trustee, dated July 7, 2017, pursuant to which:

- (a) MVC agrees to take title to the Unit until such time as I direct MVC, in writing, to transfer title to me;
- (b) I agree to pay all carrying costs in regards to the Unit, including mortgage payments, taxes, and utilities, until the Unit is transferred to me;
- (c) I agree to provide the full cash down payment and all legal fees and disbursements incurred in transferring title from MVC to me; and
- (d) MVC acknowledges that it takes title to the Unit, in trust, on my behalf.

5. A copy of the Trust Agreement is attached as **Exhibit 2A**. A copy of a statement of account from Neil L. Boyko, my then counsel, dated July 31, 2017, in respect of, among other things, drafting the Trust Agreement, is attached as **Exhibit 2B**.

B. Purchase Price Payable Under The APS

6. Pursuant to section 1 of the APS, the purchase price for the Unit is \$6,618,000.00. It is payable as follows:

- (a) A first deposit (the “**First Deposit**”) in the amount of \$330,900.00 payable upon execution of the APS;
- (b) A second deposit (the “**Second Deposit**”) in the amount of \$330,900.00 payable 120 days after execution of the APS;
- (c) A third deposit (the (“**Third Deposit**”) in the amount of \$330,900.00 payable 270 days after the execution of the APS;
- (d) A fourth deposit (the “**Fourth Deposit**” and together with the Initial Deposit, Second Deposit, and Third Deposit, the “**Deposits**”) in the amount of \$330,900.00 payable 365 days after the execution of the APS;
and
- (e) The balance of the purchase price, after giving credit for payment of the Deposits, is payable on the Closing Date as defined in the APS.

7. As further detailed below, I advanced, or caused to be advanced on my behalf, deposits totalling \$1,323,600.00 to the MVC bank account held at TD Canada Trust bearing account number 1870-5240286 (the “**MVC Account**”). The funds were advanced to MVC for the specific purpose of paying the Deposits to Delzotto, Zorzi LLP (“**Delzotto**”), in trust, for the Vendor, under the APS, as trustee for my benefit.

C. The First Deposit

8. Between October 25 to October 26, 2017, I deposited, or caused to be deposited on my behalf, the sum of \$331,151.39 to the MVC Account for the specific purpose of paying the First Deposit, as follows:

- (a) A bank draft in the amount of \$158,251.39 dated October 25, 2017, drawn from the bank account of R.J. International Corporation, of which I am the sole shareholder, director and officer, held with the Bank of Montreal bearing account number 3710 1994-680 (the "**RJ Account**"). A copy of a corporate profile report for RJ is attached as **Exhibit 3**. Copies of the RJ Account bank statement for October, 2017, together with the bank draft, are attached, collectively, as **Exhibit 4**;
- (b) A bank draft in the amount of \$152,000.00 dated October 25, 2017, drawn from my personal bank account held with CIBC bearing account number 70-39034 (the "**Santokh CIBC Account**"). Copies of the CIBC Account bank statement for October, 2017, together with the bank draft, are attached, collectively, as **Exhibit 5**; and
- (c) A transfer of \$20,900.00 from my personal bank account held with TD Canada Trust bearing account number 1870-6466982 (the "**Santokh TD Account**") to the MVC Account on October 26, 2017. A copy of the Santokh TD Account bank statement for October, 2017 is attached as **Exhibit 6**.

9. A copy of the MVC Account bank statement for October, 2017, showing the inflow of the above-noted deposits, and the outflow of \$330,900.00 to satisfy the First Deposit, is attached as **Exhibit 7**. A copy of a letter from Delzotto to MVC dated October 26, 2017, confirming MVC's payment of the First Deposit, is attached as **Exhibit 8**.

D. The Second Deposit

10. On December 18, 2017, I transferred the sum of \$330,900.00 to an account in the name of my son, Jesse Mahal, with TD Canada Trust bearing account number 1870-6280528 (the "**Jesse TD Account**"), and directed Jesse to transfer the funds to the MVC Account, for the specific purpose of paying the Second Deposit. On December 18, 2017, Jesse transferred \$330,900.00 to the MVC Account.

11. Copies of the Santokh TD Account bank statement, the Jesse TD Account bank statement and the MVC Account bank statement for December, 2017, are attached, collectively, as **Exhibit 9**.

12. On the same day, MVC paid the sum of \$330,900.00 to Delzotto to satisfy the Second Deposit. A copy of a letter from Delzotto to MVC dated December 20, 2017, confirming MVC's payment of the Second Deposit is attached as **Exhibit 10**.

E. The Third Deposit

13. Between May 24 to 30, 2018, I deposited, or caused to be deposited on my behalf, the sum of \$339,394.39 to the MVC Account for the specific purpose of paying the Third Deposit, as follows:

- (a) On May 24, 2018, I transferred \$104,512.65 to the Jesse TD Account;
- (b) On May 24, 2018, Jesse purchased a bank draft from the Jesse TD Account in the sum of \$104,512.65. This bank draft was deposited in the MVC Account on May 24, 2018;
- (c) On May 25, 2018, I purchased a bank draft from the Santokh TD Account in the sum of \$94,562.57. This bank draft was deposited into the MVC Account on May 25, 2018;
- (d) On May 30, 2018, I purchased a bank draft from the Santokh TD Account in the sum of \$20,000.00. This bank draft was deposited into the MVC Account on May 30, 2018; and
- (e) On May 30, 2018, I purchased a bank draft from the Santokh TD Account in the sum of \$120,319.17. This bank draft was deposited into the MVC Account on May 30, 2018.

14. Copies of the Santokh TD Account bank statement and the Jesse TD Account bank statement for May, 2018, together with the MVC Account bank statements for May and June, 2018 are attached, collectively, as **Exhibit 11**.

15. On June 1, 2018, MVC paid \$330,900.00 to Delzotto, in trust for the Vendor, in satisfaction of the Third Deposit. A copy of a letter from Delzotto to MVC dated June 5, 2018, confirming MVC's payment of the Third Deposit is attached as **Exhibit 12**.

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F. The Fourth Deposit

16. On October 2, 2018, I drew a cheque bearing cheque number 30-142850291 in the amount of \$331,000 from the Santokh TD Account payable to MVC for the specific purpose of paying the Fourth Deposit. On October 2, 2018, the above-noted cheque was deposited into the MVC Account. On the same day, MVC paid \$330,900 to Delzotto on account of the Fourth Deposit.

17. Copies of the Santokh TD Account bank statement and the MVC Account bank statement for October, 2018, are attached, collectively, as **Exhibit 13**.

18. A copy of a letter from Delzotto to MVC dated October 2, 2018, confirming MVC's payment of the Fourth Deposit is attached as **Exhibit 14**.

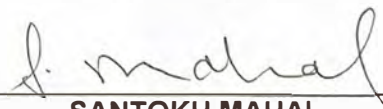
G. Closing

19. The escrow closing of the APS is currently scheduled for March 29, 2022, as appears from the letter from Delzotto to MVC dated November 17, 2021, a copy of which is attached as **Exhibit 15**.

SWORN by videoconference, in the City of Mississauga, before me at the City of Toronto, in the Province of Ontario, on January 19, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)



SANTOKH MAHAL

This is Exhibit "1" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)

AQUABELLA AT BAYSIDE TORONTO

AGREEMENT OF PURCHASE AND SALE

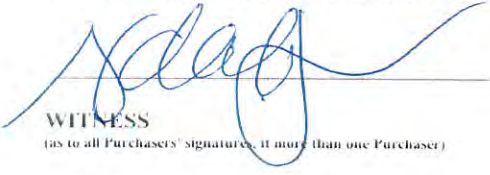
I, a) The undersigned

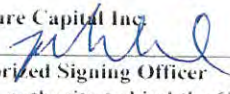
Mahal Venture Capital Inc.
(first name) (middle name) (last name)

(hereinafter collectively referred to as the "Purchaser"), hereby offer(s) to purchase from Aquabella Bayside Toronto Inc. (hereinafter referred to as the "Vendor" or the "Declarant") suite apt. no GPH1, design GPH1, being proposed dwelling unit no. 1 on level 12 (hereinafter referred to as the "Unit") and parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA and hobby/storage unit TBA, level TBA together with an undivided interest in the common elements appurtenant thereto, including any common element areas that may be designated for the exclusive use of the Unit (which Unit and its appurtenant common interest are hereinafter collectively referred to as the "Property"), in a proposed 13 storey residential condominium (hereinafter referred to as the "Condominium"), being developed by the Vendor on those lands and premises situate on the north and west sides of Merchants Wharf, and on the south side of a private roadway known as Edgewater Drive, situate south of Queens Quay East and north of the waters' edge boardwalk, with the address for the Condominium to be municipally known as 118 Merchants' Wharf, Toronto, Ontario, (or such other address as the City of Toronto may hereafter designate) for the sum of Six Million Six Hundred Eighteen Thousand Dollars (\$6,618,000) of lawful money of Canada (hereinafter referred to as the "Purchase Price") payable in Canadian currency as follows:

- i) The Purchaser shall pay to the Vendor the sum of Three Hundred Thirty Thousand Nine Hundred Dollars (\$330,900) DOLLARS as an **initial deposit (and representing 5% of the Purchase Price)** by way of a cheque made payable to the Vendor's solicitors, namely the law firm of DelZotto, Zorzi LLP (hereinafter referred to as the "Declarant's Solicitor") in trust, and delivered to the Vendor or its sales representative upon the Purchaser's execution of this Agreement.
- ii) The Purchaser shall pay to the Vendor the further sum of Three Hundred Thirty Thousand Nine Hundred Dollars (\$330,900) DOLLARS, as an **additional deposit (and representing 5% of the Purchase Price)**, by way of a cheque made payable to the Declarant's Solicitor in trust, dated 120 days after the date of the Purchaser's execution of this Agreement and delivered to the Vendor or its sales representative concurrently with the Purchaser's execution of this Agreement.
- iii) a) The Purchaser shall pay to the Vendor the further sum of Three Hundred Thirty Thousand Nine Hundred Dollars (\$330,900) DOLLARS, as an **additional deposit (and representing 5% of the Purchase Price)**, by way of a cheque made payable to the Declarant's Solicitor in trust, dated 270 days after the date of the Purchaser's execution of this Agreement and delivered to the Vendor or its sales representative concurrently with the Purchaser's execution of this Agreement; and
b) The Purchaser shall pay to the Vendor the further sum of Three Hundred Thirty Thousand Nine Hundred Dollars (\$330,900) DOLLARS, as an **additional deposit (and representing 5% of the Purchase Price)**, by way of a cheque made payable to the Declarant's Solicitor in trust, dated 365 days after the date of the Purchaser's execution of this Agreement and delivered to the Vendor or its sales representative concurrently with the Purchaser's execution of this Agreement;
- iv) The Purchaser shall pay to the Vendor the further sum of NIL (\$NIL) DOLLARS as a **further and final deposit**, by way of a **certified cheque made payable to the Declarant's Solicitor in trust, and delivered to the Declarant's Solicitor on the Firm Occupancy Date (as hereinafter defined), or on the Delayed Occupancy Date (as hereinafter defined), as the case may be, established or set by the Vendor pursuant to (and in accordance with) the provisions of the mandatory addendum issued by Tarion Warranty Corporation (hereinafter referred to as "Tarion") and annexed hereto as Schedule "OD" [which addendum comprises Tarion's condominium tentative occupancy date form, and includes the Statement of Critical Dates applicable to this transaction, and any Early Termination Conditions (if applicable) outlined in Schedule "A" thereto (and identified in section 6 (d) on page 5 thereof, and in any appendix thereto listing additional Early Termination Conditions, if applicable), and is hereinafter collectively referred to as the "Tarion Addendum"];** and
- v) The Purchaser shall **pay the balance owing on account of the Purchase Price**, by way of a **certified cheque made payable to the Declarant's Solicitor, and delivered to the Declarant's Solicitor on the Closing Date (as hereinafter defined)**, subject to the adjustments provided or contemplated in Section 1.04 of Schedule "A" annexed hereto, and with all such adjustments to be reflected in the statement of adjustments prepared by the Vendor or the Declarant's Solicitor as of the Closing Date.
- b) The Purchaser hereby acknowledges and agrees that the following schedules annexed hereto form an integral part of this Agreement, and the Purchaser hereby confirms having read and understood all of the terms and provisions of said schedules, and agrees to be bound by same, namely:
 - Schedule "A" - GENERAL TERMS AND PROVISIONS, comprising pages A-1 to A-28 inclusive [version 10/12]
 - Schedule "AA" - SITE SPECIFIC TERMS AND PROVISIONS, comprising pages AA-1 to AA-23 inclusive [version 10/16]
 - Schedule "B" - SUITE FEATURES AND FINISHES, comprising page B-1
 - Schedule "C1" - FLOOR PLAN LAYOUT OF THE DWELLING UNIT, comprising page C1-1
 - Schedule "C2" - FLOOR PLAN OF THE CONDOMINIUM BUILDING, comprising page C2-1
 - Schedule "D" - SITE PLAN SKETCH OUTLINING THE LANDS, comprising page D-1
 - Schedule "LRA" - LIMITED RIGHT OF ASSIGNMENT, comprising pages LRA-1 to LRA-2
 - Schedule "OD" - THE TARIION ADDENDUM, comprising pages 1 to 12 inclusive
- c) This first page (that is ultimately signed by both parties hereto), together with all of the foregoing schedules that are annexed hereto, shall hereinafter and hereinafter be collectively referred to as this or the "Agreement". All capitalized terms used in this Agreement shall have the meanings respectively ascribed to them in Section 1.01 of Schedule "A" annexed hereto, or as otherwise defined elsewhere in this Agreement.
- d) It is acknowledged and agreed that the Purchaser's initial deposit cheque, and all subsequent deposit cheques, will be deposited by the Declarant's Solicitor into a designated trust account maintained specifically in connection with this Condominium, and that statutory interest (arising under the *Condominium Act 1998, S.O. 1998, as amended*) will only commence to accrue thereon at the rate prescribed thereunder from and after the respective dates that the Purchaser's deposit cheques have been respectively deposited into the aforementioned trust account.

IN WITNESS WHEREOF, the Purchaser has hereunto executed these presents this 3rd day of August, 2017

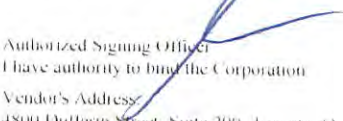

WITNESS
(as to all Purchasers' signatures, if more than one Purchaser)

Mahal Venture Capital Inc.
Per: 
Authorized Signing Officer
I have authority to bind the Corporation

6845 Second Line West Mississauga, ON, L5W 1M8, Canada
Purchaser's Address for Service
Home: Business: (905) 781-1399 Fax:
Mobile:
Purchaser's Telephone Numbers
jesse.mahal@gmail.com
Purchaser's E-mail Address (to be used only for the Vendor's communication with the Purchaser regarding this transaction)

NOTICE TO PURCHASER: This "Pre-Authorized Agreement" shall only be binding upon the Vendor if executed without any handwritten changes to any of the standard pre-set/pre-printed terms and provisions of this Agreement whatsoever.

The Vendor hereby accepts the above offer and its terms, by hereunto executing these presents this 3rd day of August, 2017

Aquabella Bayside Toronto Inc.
P/R:

Authorized Signing Officer
I have authority to bind the Corporation
Vendor's Address:
4800 Dufferin Street, Suite 200, Toronto, Ontario
M3H 5S9, Attention: Susan Shapiro

Vendor's Solicitors
DELZOTTO, ZORZI LLP, 4810 Dufferin Street, Suite D
Toronto, Ontario M3H 5S8, Attention: Harry Herskowitz

Telephone No. (416) 665-5555, Teletax No. (416) 665-9653

Telephone No. (416) 661-9290, Teletax No. (416) 661-8923

pkhl

a



**Condominium Form
(Tentative Occupancy Date)**

Property Aquabella at Bayside Toronto
suite # GPH1

**Statement of Critical Dates
Delayed Occupancy Warranty**

This Statement of Critical Dates forms part of the Addendum to which it is attached, which in turn forms part of the agreement of purchase and sale between the Vendor and the Purchaser relating to the Property. **The Vendor must complete all blanks set out below. Both the Vendor and Purchaser must sign this page.**

NOTE TO HOME BUYERS: Please visit Tarion's website: www.tarion.com for important information about all of Tarion's warranties including the Delayed Occupancy Warranty, the Pre-Delivery Inspection and other matters of interest to new home buyers. You can also obtain a copy of the Homeowner Information Package which is strongly recommended as essential reading for all home buyers. The website features a calculator which will assist you in confirming the various Critical Dates related to the occupancy of your home.

VENDOR Aquabella Bayside Toronto Inc.
Full Name(s)
PURCHASER Mahal Venture Capital Inc.
Full Name(s)

1. Critical Dates

The **First Tentative Occupancy Date**, which is the date that the Vendor anticipates the home will be completed and ready to move in, is:

March 22, 2021

The Vendor can delay Occupancy on one or more occasions by setting a subsequent **Tentative Occupancy Date**, in accordance with section 1 of the Addendum by giving proper written notice as set out in section 1.

By no later than 30 days after the Roof Assembly Date (as defined in section 12), with at least 90 days prior written notice, the Vendor shall set either (i) a **Final Tentative Occupancy Date**; or (ii) a **Firm Occupancy Date**.

For purchase agreements signed after the Roof Assembly Date, the First Tentative Occupancy Date is inapplicable and the Vendor shall instead elect and set either a Final Tentative Occupancy Date or Firm Occupancy Date.

the day of , 20 .
Final Tentative Occupancy Date

or

the day of , 20 .
Firm Occupancy Date

If the Vendor sets a Final Tentative Occupancy Date but cannot provide Occupancy by the Final Tentative Occupancy Date, then the Vendor shall set a **Firm Occupancy Date** that is no later than 120 days after the Final Tentative Occupancy Date, with proper written notice as set out in section 1 below.

If the Vendor cannot provide Occupancy by the Firm Occupancy Date, then the Purchaser is entitled to delayed occupancy compensation (see section 7 of the Addendum) and the Vendor must set a Delayed Occupancy Date which cannot be later than the Outside Occupancy Date.

The **Outside Occupancy Date**, which is the latest date by which the Vendor agrees to provide Occupancy, is:

March 22, 2024

2. Notice Period for an Occupancy Delay

Changing an Occupancy date requires proper written notice. The Vendor, without the Purchaser's consent, may delay Occupancy one or more times in accordance with section 1 of the Addendum and no later than the Outside Occupancy Date.

Notice of a delay beyond the First Tentative Occupancy Date must be given no later than:

(i.e., at least **90 days** before the First Tentative Occupancy Date), or else the First Tentative Occupancy Date automatically becomes the Firm Occupancy Date.

December 22, 2020

3. Purchaser's Termination Period

If the home is not complete by the Outside Occupancy Date, then the Purchaser can terminate the transaction during a period of **30 days** thereafter (the "**Purchaser's Termination Period**"), which period, unless extended by mutual agreement, will end on:

April 22, 2024

If the Purchaser terminates the transaction during the Purchaser's Termination Period, then the Purchaser is entitled to delayed occupancy compensation and to a full refund of all monies paid plus interest (see sections 7, 10 and 11 of the Addendum).

Note: Any time a Critical Date is set or changed as permitted in the Addendum, other Critical Dates may change as well. At any given time the parties must refer to: the most recent revised Statement of Critical Dates; or agreement or written notice that sets a Critical Date, and calculate revised Critical Dates using the formulas contained in the Addendum. Critical Dates can also change if there are unavoidable delays (see section 5 of the Addendum).

Acknowledged this 3rd day of April, 2017
VENDOR: Aquabella Bayside Toronto Inc.
Per: [Signature]
Authorized Signing Officer

PURCHASER: Mahal Venture Capital Inc.
Per: [Signature]
Authorized signing officer
I have authority to bind the Corporation

Addendum to Agreement of Purchase and Sale
 Delayed Occupancy Warranty

This addendum, including the accompanying Statement of Critical Dates (the "Addendum"), forms part of the agreement of purchase and sale (the "Purchase Agreement") between the Vendor and the Purchaser relating to the Property. This Addendum is to be used for a transaction where the home is a condominium unit (that is not a vacant land condominium unit). This Addendum contains important provisions that are part of the delayed occupancy warranty provided by the Vendor in accordance with the *Ontario New Home Warranties Plan Act* (the "ONHWP Act"). If there are any differences between the provisions in the Addendum and the Purchase Agreement, then the Addendum provisions shall prevail. **PRIOR TO SIGNING THE PURCHASE AGREEMENT OR ANY AMENDMENT TO IT, THE PURCHASER SHOULD SEEK ADVICE FROM A LAWYER WITH RESPECT TO THE PURCHASE AGREEMENT OR AMENDING AGREEMENT, THE ADDENDUM AND THE DELAYED OCCUPANCY WARRANTY.**

Tarion recommends that Purchasers register on Tarion's **MyHome** on-line portal and visit Tarion's website – **tarion.com**, to better understand their rights and obligations under the statutory warranties.

The Vendor shall complete all blanks set out below.

VENDOR Aquabella Bayside Toronto Inc.

<u>Full Name(s)</u>	<u>4800 Dufferin Street</u>		
<u>45786</u>	<u>Address</u>		
<u>Tarion Registration Number</u>	<u>Toronto</u>	<u>Ontario</u>	<u>M3H 5S9</u>
<u>416.661.9290</u>	<u>City</u>	<u>Province</u>	<u>Postal Code</u>
<u>Phone</u>	<u>ask@tridel.com</u>		
<u>416.661.8923</u>	<u>Email*</u>		
<u>Fax</u>			

PURCHASER Mahal Venture Capital Inc.

<u>Full Name(s)</u>	<u>6845 Second Line West, Mississauga, ON L5W 1M8</u>		
<u>6845 Second Line West,</u>	<u>City</u>	<u>Province</u>	<u>Postal Code</u>
<u>Address</u>	<u>905 781-1399</u>		
<u>905 781-1399</u>	<u>jesse.mahal@gmail.com</u>		
<u>Phone</u>	<u>Email*</u>		
<u>Fax</u>			

PROPERTY DESCRIPTION

118 Merchants' Wharf, SUITE# GPH1

<u>Municipal Address</u>	<u>Toronto, Ontario</u>		
<u>Toronto, Ontario</u>	<u>City</u>	<u>Province</u>	<u>Postal Code</u>
<u>Legal Level 12, Legal Unit 1</u>	<u>Short Legal Description</u>		

INFORMATION REGARDING THE PROPERTY

The Vendor confirms that:

- (a) The Vendor has obtained Formal Zoning Approval for the Building. Yes No
 If no, the Vendor shall give written notice to the Purchaser within 10 days after the date that Formal Zoning Approval for the Building is obtained.
- (b) Commencement of Construction: has occurred; or is expected to occur by January 30, 2018

The Vendor shall give written notice to the Purchaser within 10 days after the actual date of Commencement of Construction.

*Note: Since important notices will be sent to this address, it is essential that you ensure that a reliable email address is provided and that your computer settings permit receipt of notices from the other party.

SETTING AND CHANGING CRITICAL DATES

1. Setting Tentative Occupancy Dates and the Firm Occupancy Date

- (a) **Completing Construction Without Delay:** The Vendor shall take all reasonable steps to complete construction of the Building subject to all prescribed requirements, to provide Occupancy of the home without delay, and, to register without delay the declaration and description in respect of the Building.
- (b) **First Tentative Occupancy Date:** The Vendor shall identify the First Tentative Occupancy Date in the Statement of Critical Dates attached to this Addendum at the time the Purchase Agreement is signed.
- (c) **Subsequent Tentative Occupancy Dates:** The Vendor may, in accordance with this section, extend the First Tentative Occupancy Date on one or more occasions, by setting a subsequent Tentative Occupancy Date. The Vendor shall give written notice of any subsequent Tentative Occupancy Date to the Purchaser at least 90 days before the existing Tentative Occupancy Date (which in this Addendum may include the First Tentative Occupancy Date), or else the existing Tentative Occupancy Date shall for all purposes be the Firm Occupancy Date. A subsequent Tentative Occupancy Date can be any Business Day on or before the Outside Occupancy Date.
- (d) **Final Tentative Occupancy Date:** By no later than 30 days after the Roof Assembly Date, the Vendor shall by written notice to the Purchaser set either (i) a Final Tentative Occupancy Date; or (ii) a Firm Occupancy Date. If the Vendor does not do so, the existing Tentative Occupancy Date shall for all purposes be the Firm Occupancy Date. The Vendor shall give written notice of the Final Tentative Occupancy Date or Firm Occupancy Date, as the case may be, to the Purchaser at least 90 days before the existing Tentative Occupancy Date, or else the existing Tentative Occupancy Date shall for all purposes be the Firm Occupancy Date. The Final Tentative Occupancy Date or Firm Occupancy Date, as the case may be, can be any Business Day on or before the Outside Occupancy Date. For new Purchase Agreements signed after the Roof Assembly Date, the Vendor shall insert in the Statement of Critical Dates of the Purchase Agreement either: a Final Tentative Occupancy Date; or a Firm Occupancy Date.
- (e) **Firm Occupancy Date:** If the Vendor has set a Final Tentative Occupancy Date but cannot provide Occupancy by the Final Tentative Occupancy Date then the Vendor shall set a Firm Occupancy Date that is no later than 120 days after the Final Tentative Occupancy Date. The Vendor shall give written notice of the Firm Occupancy Date to the Purchaser at least 90 days before the Final Tentative Occupancy Date, or else the Final Tentative Occupancy Date shall for all purposes be the Firm Occupancy Date. The Firm Occupancy Date can be any Business Day on or before the Outside Occupancy Date.
- (f) **Notice:** Any notice given by the Vendor under paragraph (c), (d) or (e) must set out the stipulated Critical Date, as applicable.

2. Changing the Firm Occupancy Date – Three Ways

- (a) The Firm Occupancy Date, once set or deemed to be set in accordance with section 1, can be changed only:
 - (i) by the Vendor setting a Delayed Occupancy Date in accordance with section 3;
 - (ii) by the mutual written agreement of the Vendor and Purchaser in accordance with section 4; or
 - (iii) as the result of an Unavoidable Delay of which proper written notice is given in accordance with section 5.
- (b) If a new Firm Occupancy Date is set in accordance with section 4 or 5, then the new date is the "Firm Occupancy Date" for all purposes in this Addendum.

3. Changing the Firm Occupancy Date – By Setting a Delayed Occupancy Date

- (a) If the Vendor cannot provide Occupancy on the Firm Occupancy Date and sections 4 and 5 do not apply, the Vendor shall select and give written notice to the Purchaser of a Delayed Occupancy Date in accordance with this section, and delayed occupancy compensation is payable in accordance with section 7.
- (b) The Delayed Occupancy Date may be any Business Day after the date the Purchaser receives written notice of the Delayed Occupancy Date but not later than the Outside Occupancy Date.
- (c) The Vendor shall give written notice to the Purchaser of the Delayed Occupancy Date as soon as the Vendor knows that it will be unable to provide Occupancy on the Firm Occupancy Date, and in any event at least 10 days before the Firm Occupancy Date, failing which delayed occupancy compensation is payable from the date that is 10 days before the Firm Occupancy Date, in accordance with paragraph 7(c). If notice of a new Delayed Occupancy Date is not given by the Vendor before the Firm Occupancy Date, then the new Delayed Occupancy Date shall be deemed to be the date which is 90 days after the Firm Occupancy Date.
- (d) After the Delayed Occupancy Date is set, if the Vendor cannot provide Occupancy on the Delayed Occupancy Date, the Vendor shall select and give written notice to the Purchaser of a new Delayed Occupancy Date, unless the delay arises due to Unavoidable Delay under section 5 or is mutually agreed upon under section 4, in which case the requirements of those sections must be met. Paragraphs (b) and (c) above apply with respect to the setting of the new Delayed Occupancy Date.
- (e) Nothing in this section affects the right of the Purchaser or Vendor to terminate the Purchase Agreement on the bases set out in section 10.

4. Changing Critical Dates – By Mutual Agreement

- (a) This Addendum sets out a framework for setting, extending and/or accelerating Critical Dates, which cannot be altered contractually except as set out in this section 4. Any amendment not in accordance with this section is voidable at the option of the Purchaser. For greater certainty, this Addendum does not restrict any extensions of the Closing date (i.e., title transfer date) where Occupancy of the home has already been given to the Purchaser.




- (b) The Vendor and Purchaser may at any time, after signing the Purchase Agreement, mutually agree in writing to accelerate or extend any of the Critical Dates. Any amendment which accelerates or extends any of the Critical Dates must include the following provisions:
- (i) the Purchaser and Vendor agree that the amendment is entirely voluntary – the Purchaser has no obligation to sign the amendment and each understands that this purchase transaction will still be valid if the Purchaser does not sign this amendment;
 - (ii) the amendment includes a revised Statement of Critical Dates which replaces the previous Statement of Critical Dates;
 - (iii) the Purchaser acknowledges that the amendment may affect delayed occupancy compensation payable; and
 - (iv) if the change involves extending either the Firm Occupancy Date or the Delayed Occupancy Date, then the amending agreement shall:
 - i. disclose to the Purchaser that the signing of the amendment may result in the loss of delayed occupancy compensation as described in section 7;
 - ii. unless there is an express waiver of compensation, describe in reasonable detail the cash amount, goods, services, or other consideration which the Purchaser accepts as compensation; and
 - iii. contain a statement by the Purchaser that the Purchaser waives compensation or accepts the compensation referred to in clause ii above, in either case, in full satisfaction of any delayed occupancy compensation payable by the Vendor for the period up to the new Firm Occupancy Date or Delayed Occupancy Date.

If the Purchaser for his or her own purposes requests a change of the Firm Occupancy Date or the Delayed Occupancy Date, then subparagraphs (b)(i), (iii) and (iv) above shall not apply.

- (c) A Vendor is permitted to include a provision in the Purchase Agreement allowing the Vendor a one-time unilateral right to extend a Firm Occupancy Date or Delayed Occupancy Date, as the case may be, for one (1) Business Day to avoid the necessity of tender where a Purchaser is not ready to complete the transaction on the Firm Occupancy Date or Delayed Occupancy Date, as the case may be. Delayed occupancy compensation will not be payable for such period and the Vendor may not impose any penalty or interest charge upon the Purchaser with respect to such extension.
- (d) The Vendor and Purchaser may agree in the Purchase Agreement to any unilateral extension or acceleration rights that are for the benefit of the Purchaser.

5. Extending Dates – Due to Unavoidable Delay

- (a) If Unavoidable Delay occurs, the Vendor may extend Critical Dates by no more than the length of the Unavoidable Delay Period, without the approval of the Purchaser and without the requirement to pay delayed occupancy compensation in connection with the Unavoidable Delay, provided the requirements of this section are met.
- (b) If the Vendor wishes to extend Critical Dates on account of Unavoidable Delay, the Vendor shall provide written notice to the Purchaser setting out a brief description of the Unavoidable Delay, and an estimate of the duration of the delay. Once the Vendor knows or ought reasonably to know that an Unavoidable Delay has commenced, the Vendor shall provide written notice to the Purchaser by the earlier of: 20 days thereafter; and the next Critical Date.
- (c) As soon as reasonably possible, and no later than 20 days after the Vendor knows or ought reasonably to know that an Unavoidable Delay has concluded, the Vendor shall provide written notice to the Purchaser setting out a brief description of the Unavoidable Delay, identifying the date of its conclusion, and setting new Critical Dates. The new Critical Dates are calculated by adding to the then next Critical Date the number of days of the Unavoidable Delay Period (the other Critical Dates changing accordingly), provided that the Firm Occupancy Date or Delayed Occupancy Date, as the case may be, must be at least 10 days after the day of giving notice unless the parties agree otherwise. Either the Vendor or the Purchaser may request in writing an earlier Firm Occupancy Date or Delayed Occupancy Date, and the other party's consent to the earlier date shall not be unreasonably withheld.
- (d) If the Vendor fails to give written notice of the conclusion of the Unavoidable Delay in the manner required by paragraph (c) above, then the notice is ineffective, the existing Critical Dates are unchanged, and any delayed occupancy compensation payable under section 7 is payable from the existing Firm Occupancy Date.
- (e) Any notice setting new Critical Dates given by the Vendor under this section shall include an updated revised Statement of Critical Dates.

EARLY TERMINATION CONDITIONS

6. Early Termination Conditions

- (a) The Vendor and Purchaser may include conditions in the Purchase Agreement that, if not satisfied, give rise to early termination of the Purchase Agreement, but only in the limited way described in this section.
- (b) The Vendor is not permitted to include any conditions in the Purchase Agreement other than: the types of Early Termination Conditions listed in Schedule A; and/or the conditions referred to in paragraphs (i), (j) and (k) below. Any other condition included in a Purchase Agreement for the benefit of the Vendor that is not expressly permitted under Schedule A or paragraphs (i), (j) and (k) below is deemed null and void and is not enforceable by the Vendor, but does not affect the validity of the balance of the Purchase Agreement.



**Condominium Form
(Tentative Occupancy Date)**

- (c) The Vendor confirms that this Purchase Agreement is subject to Early Termination Conditions that, if not satisfied (or waived, if applicable), may result in the termination of the Purchase Agreement. Yes No
- (d) If the answer in (c) above is "Yes", then the Early Termination Conditions are as follows. The obligation of each of the Purchaser and Vendor to complete this purchase and sale transaction is subject to satisfaction (or waiver, if applicable) of the following conditions and any such conditions set out in an appendix headed "Early Termination Conditions":

Condition Number One (if applicable):
Description of the Early Termination Condition:

Receipt by the Vendor of confirmation that financing for the project on terms satisfactory to the Vendor has been arranged.

The Approving Authority (as that term is defined in Schedule A) is: Not Applicable

The date by which Condition One is to be satisfied or waived is October 1, 2020

Condition Number Two (if applicable):
Description of the Early Termination Condition:

Receipt by the Vendor of confirmation that sales of condominium dwelling units have exceeded 75% of the total dwelling units.

The Approving Authority (as that term is defined in Schedule A) is: Not Applicable

The date by which Condition Two is to be satisfied or waived is October 1, 2020

The date for satisfaction of any Early Termination Condition may be changed by mutual agreement provided in all cases it is set at least 90 days before the First Tentative Occupancy Date, and will be deemed to be 90 days before the First Tentative Occupancy Date if no date is specified or if the date specified is later than 90 days before the First Tentative Occupancy Date. This time limitation does not apply to the condition in subparagraph 1(b)(iv) of Schedule A which must be satisfied or waived by the Vendor within 60 days following the later of: (A) the signing of the Purchase Agreement; and (B) the satisfaction or waiver by the Purchaser of a Purchaser financing condition permitted under paragraph (k) below.

Note. The parties must add additional pages as an appendix to this Addendum if there are additional Early Termination Conditions.

- (e) There are no Early Termination Conditions applicable to this Purchase Agreement other than those identified in subparagraph (d) above and any appendix listing additional Early Termination Conditions.
- (f) The Vendor agrees to take all commercially reasonable steps within its power to satisfy the Early Termination Conditions identified in subparagraph (d) above.
- (g) For conditions under paragraph 1(a) of Schedule A the following applies:
- (i) conditions in paragraph 1(a) of Schedule A may not be waived by either party;
 - (ii) the Vendor shall provide written notice not later than five (5) Business Days after the date specified for satisfaction of a condition that: (A) the condition has been satisfied; or (B) the condition has not been satisfied (together with reasonable details and backup materials) and that as a result the Purchase Agreement is terminated; and
 - (iii) if notice is not provided as required by subparagraph (ii) above then the condition is deemed not satisfied and the Purchase Agreement is terminated.
- (h) For conditions under paragraph 1(b) of Schedule A the following applies:
- (i) conditions in paragraph 1(b) of Schedule A may be waived by the Vendor;
 - (ii) the Vendor shall provide written notice on or before the date specified for satisfaction of the condition that: (A) the condition has been satisfied or waived; or (B) the condition has not been satisfied nor waived, and that as a result the Purchase Agreement is terminated; and
 - (iii) if notice is not provided as required by subparagraph (ii) above then the condition is deemed satisfied or waived and the Purchase Agreement will continue to be binding on both parties.
- (i) The Purchase Agreement may be conditional until Closing (transfer to the Purchaser of title to the home), upon compliance with the subdivision control provisions (section 50) of the *Planning Act* and, if applicable, registration of the declaration and description for the Building under the *Condominium Act, 1998*, which compliance shall be obtained by the Vendor at its sole expense, on or before Closing.
- (j) The Purchaser is cautioned that there may be other conditions in the Purchase Agreement that allow the Vendor to terminate the Purchase Agreement due to the fault of the Purchaser.
- (k) The Purchase Agreement may include any condition that is for the sole benefit of the Purchaser and that is agreed to by the Vendor (e.g., the sale of an existing dwelling, Purchaser financing or a basement walkout). The Purchase Agreement may specify that the Purchaser has a right to terminate the Purchase Agreement if any such condition is not met, and may set out the terms on which termination by the Purchaser may be effected.




MAKING A COMPENSATION CLAIM
7. Delayed Occupancy Compensation

- (a) The Vendor warrants to the Purchaser that, if Occupancy is delayed beyond the Firm Occupancy Date (other than by mutual agreement or as a result of Unavoidable Delay as permitted under sections 4 and 5), then the Vendor shall compensate the Purchaser up to a total amount of \$7,500, which amount includes: (i) payment to the Purchaser of a set amount of \$150 a day for living expenses for each day of delay until the Occupancy Date or the date of termination of the Purchase Agreement, as applicable under paragraph (b) below; and (ii) any other expenses (supported by receipts) incurred by the Purchaser due to the delay.
- (b) Delayed occupancy compensation is payable only if: (i) Occupancy and Closing occurs; or (ii) the Purchase Agreement is terminated or deemed to have been terminated under paragraph 10(b) of this Addendum. Delayed occupancy compensation is payable only if the Purchaser's claim is made to Tarion in writing within one (1) year after Occupancy, or after termination of the Purchase Agreement, as the case may be, and otherwise in accordance with this Addendum. Compensation claims are subject to any further conditions set out in the ONHWP Act.
- (c) If the Vendor gives written notice of a Delayed Occupancy Date to the Purchaser less than 10 days before the Firm Occupancy Date, contrary to the requirements of paragraph 3(c), then delayed occupancy compensation is payable from the date that is 10 days before the Firm Occupancy Date.
- (d) Living expenses are direct living costs such as for accommodation and meals. Receipts are not required in support of a claim for living expenses, as a set daily amount of \$150 per day is payable. The Purchaser must provide receipts in support of any claim for other delayed occupancy compensation, such as for moving and storage costs. Submission of false receipts disentitles the Purchaser to any delayed occupancy compensation in connection with a claim.
- (e) If delayed occupancy compensation is payable, the Purchaser may make a claim to the Vendor for that compensation after Occupancy or after termination of the Purchase Agreement, as the case may be, and shall include all receipts (apart from living expenses) which evidence any part of the Purchaser's claim. The Vendor shall assess the Purchaser's claim by determining the amount of delayed occupancy compensation payable based on the rules set out in section 7 and the receipts provided by the Purchaser, and the Vendor shall promptly provide that assessment information to the Purchaser. The Purchaser and the Vendor shall use reasonable efforts to settle the claim and when the claim is settled, the Vendor shall prepare an acknowledgement signed by both parties which:
- (i) includes the Vendor's assessment of the delayed occupancy compensation payable;
 - (ii) describes in reasonable detail the cash amount, goods, services, or other consideration which the Purchaser accepts as compensation (the "Compensation"), if any; and
 - (iii) contains a statement by the Purchaser that the Purchaser accepts the Compensation in full satisfaction of any delayed occupancy compensation payable by the Vendor.
- (f) If the Vendor and Purchaser cannot agree as contemplated in paragraph 7(e), then to make a claim to Tarion the Purchaser must file a claim with Tarion in writing within one (1) year after Occupancy. A claim may also be made and the same rules apply if the sale transaction is terminated under paragraph 10(b), in which case, the deadline for a claim is one (1) year after termination.
- (g) If delayed occupancy compensation is payable, the Vendor shall either pay the compensation as soon as the proper amount is determined; or pay such amount with interest (at the prescribed rate as specified in subsection 19(1) of O.Reg. 48/01 of the *Condominium Act, 1998*), from the Occupancy Date to the date of Closing, such amount to be an adjustment to the balance due on the day of Closing.

8. Adjustments to Purchase Price

Only the items set out in Schedule B (or an amendment to Schedule B), shall be the subject of adjustment or change to the purchase price or the balance due on Closing. The Vendor agrees that it shall not charge as an adjustment or readjustment to the purchase price of the home, any reimbursement for a sum paid or payable by the Vendor to a third party unless the sum is ultimately paid to the third party either before or after Closing. If the Vendor charges an amount in contravention of the preceding sentence, the Vendor shall forthwith readjust with the Purchaser. This section shall not: restrict or prohibit payments for items disclosed in Part I of Schedule B which have a fixed fee; nor shall it restrict or prohibit the parties from agreeing on how to allocate as between them, any rebates, refunds or incentives provided by the federal government, a provincial or municipal government or an agency of any such government, before or after Closing.

MISCELLANEOUS
9. Ontario Building Code – Conditions of Occupancy

- (a) On or before the Occupancy Date, the Vendor shall deliver to the Purchaser:
- (i) an Occupancy Permit (as defined in paragraph (d)) for the home; or
 - (ii) if an Occupancy Permit is not required under the Building Code, a signed written confirmation by the Vendor that all conditions of occupancy under the Building Code have been fulfilled and Occupancy is permitted under the Building Code.



- (b) Notwithstanding the requirements of paragraph (a), to the extent that the Purchaser and the Vendor agree that the Purchaser shall be responsible for one or more prerequisites to obtaining permission for Occupancy under the Building Code, (the "Purchaser Occupancy Obligations"):
- (i) the Purchaser shall not be entitled to delayed occupancy compensation if the reason for the delay is that the Purchaser Occupancy Obligations have not been completed;
 - (ii) the Vendor shall deliver to the Purchaser, upon fulfilling all prerequisites to obtaining permission for Occupancy under the Building Code (other than the Purchaser Occupancy Obligations), a signed written confirmation that the Vendor has fulfilled such prerequisites; and
 - (iii) if the Purchaser and Vendor have agreed that such prerequisites (other than the Purchaser Occupancy Obligations) are to be fulfilled prior to Occupancy, then the Vendor shall provide the signed written confirmation required by subparagraph (ii) on or before the Occupancy Date.
- (c) If the Vendor cannot satisfy the requirements of paragraph (a) or subparagraph (b)(ii), the Vendor shall set a Delayed Occupancy Date (or new Delayed Occupancy Date) on a date that the Vendor reasonably expects to have satisfied the requirements of paragraph (a) or subparagraph (b)(ii), as the case may be. In setting the Delayed Occupancy Date (or new Delayed Occupancy Date), the Vendor shall comply with the requirements of section 3, and delayed occupancy compensation shall be payable in accordance with section 7. Despite the foregoing, delayed occupancy compensation shall not be payable for a delay under this paragraph (c) if the inability to satisfy the requirements of subparagraph (b)(ii) is because the Purchaser has failed to satisfy the Purchaser Occupancy Obligations.
- (d) For the purposes of this section, an "Occupancy Permit" means any written or electronic document, however styled, whether final, provisional or temporary, provided by the chief building official (as defined in the *Building Code Act*) or a person designated by the chief building official, that evidences that permission to occupy the home under the Building Code has been granted.

10. Termination of the Purchase Agreement

- (a) The Vendor and the Purchaser may terminate the Purchase Agreement by mutual written agreement. Such written mutual agreement may specify how monies paid by the Purchaser, including deposit(s) and monies for upgrades and extras are to be allocated if not repaid in full.
- (b) If for any reason (other than breach of contract by the Purchaser) Occupancy has not been given to the Purchaser by the Outside Occupancy Date, then the Purchaser has 30 days to terminate the Purchase Agreement by written notice to the Vendor. If the Purchaser does not provide written notice of termination within such 30-day period, then the Purchase Agreement shall continue to be binding on both parties and the Delayed Occupancy Date shall be the date set under paragraph 3(c), regardless of whether such date is beyond the Outside Occupancy Date.
- (c) If: calendar dates for the applicable Critical Dates are not inserted in the Statement of Critical Dates; or if any date for Occupancy is expressed in the Purchase Agreement or in any other document to be subject to change depending upon the happening of an event (other than as permitted in this Addendum), then the Purchaser may terminate the Purchase Agreement by written notice to the Vendor.
- (d) The Purchase Agreement may be terminated in accordance with the provisions of section 6.
- (e) Nothing in this Addendum derogates from any right of termination that either the Purchaser or the Vendor may have at law or in equity on the basis of, for example, frustration of contract or fundamental breach of contract.
- (f) Except as permitted in this section, the Purchase Agreement may not be terminated by reason of the Vendor's delay in providing Occupancy alone.

11. Refund of Monies Paid on Termination

- (a) If the Purchase Agreement is terminated (other than as a result of breach of contract by the Purchaser), then unless there is agreement to the contrary under paragraph 10(a), the Vendor shall refund all monies paid by the Purchaser including deposit(s) and monies for upgrades and extras, within 10 days of such termination, with interest from the date each amount was paid to the Vendor to the date of refund to the Purchaser. The Purchaser cannot be compelled by the Vendor to execute a release of the Vendor as a prerequisite to obtaining the refund of monies payable as a result of termination of the Purchase Agreement under this paragraph, although the Purchaser may be required to sign a written acknowledgement confirming the amount of monies refunded and termination of the purchase transaction. Nothing in this Addendum prevents the Vendor and Purchaser from entering into such other termination agreement and/or release as may be agreed to by the parties.
- (b) The rate of interest payable on the Purchaser's monies shall be calculated in accordance with the *Condominium Act, 1998*.
- (c) Notwithstanding paragraphs (a) and (b) above, if either party initiates legal proceedings to contest termination of the Purchase Agreement or the refund of monies paid by the Purchaser, and obtains a legal determination, such amounts and interest shall be payable as determined in those proceedings.

12. Definitions

"Building" means the condominium building or buildings contemplated by the Purchase Agreement, in which the Property is located or is proposed to be located.

"Business Day" means any day other than: Saturday; Sunday; New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day; and any special holiday proclaimed by the Governor General or the Lieutenant Governor; and where New Year's Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is




not a Business Day, and where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are not Business Days; and where Christmas Day falls on a Friday, the following Monday is not a Business Day.

“**Closing**” means completion of the sale of the home, including transfer of title to the home to the Purchaser.

“**Commencement of Construction**” means the commencement of construction of foundation components or elements (such as footings, rafts or piles) for the Building.

“**Critical Dates**” means the First Tentative Occupancy Date, any subsequent Tentative Occupancy Date, the Final Tentative Occupancy Date, the Firm Occupancy Date, the Delayed Occupancy Date, the Outside Occupancy Date and the last day of the Purchaser’s Termination Period.

“**Delayed Occupancy Date**” means the date, set in accordance with section 3, on which the Vendor agrees to provide Occupancy, in the event the Vendor cannot provide Occupancy on the Firm Occupancy Date.

“**Early Termination Conditions**” means the types of conditions listed in Schedule A.

“**Final Tentative Occupancy Date**” means the last Tentative Occupancy Date that may be set in accordance with paragraph 1(d).

“**Firm Occupancy Date**” means the firm date on which the Vendor agrees to provide Occupancy as set in accordance with this Addendum.

“**First Tentative Occupancy Date**” means the date on which the Vendor, at the time of signing the Purchase Agreement, anticipates that the home will be complete and ready for Occupancy, as set out in the Statement of Critical Dates.

“**Formal Zoning Approval**” occurs when the zoning by-law required for the Building has been approved by all relevant governmental authorities having jurisdiction, and the period for appealing the approvals has elapsed and/or any appeals have been dismissed or the approval affirmed.

“**Occupancy**” means the right to use or occupy the home in accordance with the Purchase Agreement.

“**Occupancy Date**” means the date the Purchaser is given Occupancy.

“**Outside Occupancy Date**” means the latest date that the Vendor agrees to provide Occupancy to the Purchaser, as confirmed in the Statement of Critical Dates.

“**Property**” or “**home**” means the home being acquired by the Purchaser from the Vendor, and its interest in the related common elements.

“**Purchaser’s Termination Period**” means the 30-day period during which the Purchaser may terminate the Purchase Agreement for delay, in accordance with paragraph 10(b).

“**Roof Assembly Date**” means the date upon which the roof slab, or roof trusses and sheathing, as the case may be, are completed. For single units in a multi-unit block, whether or not vertically stacked, (e.g., townhouses or row houses), the roof refers to the roof of the block of homes unless the unit in question has a roof which is in all respects functionally independent from and not physically connected to any portion of the roof of any other unit(s), in which case the roof refers to the roof of the applicable unit. For multi-story, vertically stacked units, (e.g. typical high rise) roof refers to the roof of the Building.

“**Statement of Critical Dates**” means the Statement of Critical Dates attached to and forming part of this Addendum (in form to be determined by Tarion from time to time), and, if applicable, as amended in accordance with this Addendum.

“**The ONHWP Act**” means the *Ontario New Home Warranties Plan Act* including regulations, as amended from time to time.

“**Unavoidable Delay**” means an event which delays Occupancy which is a strike, fire, explosion, flood, act of God, civil insurrection, act of war, act of terrorism or pandemic, plus any period of delay directly caused by the event, which are beyond the reasonable control of the Vendor and are not caused or contributed to by the fault of the Vendor.

“**Unavoidable Delay Period**” means the number of days between the Purchaser’s receipt of written notice of the commencement of the Unavoidable Delay, as required by paragraph 5(b), and the date on which the Unavoidable Delay concludes.

13. Addendum Prevails

The Addendum forms part of the Purchase Agreement. The Vendor and Purchaser agree that they shall not include any provision in the Purchase Agreement or any amendment to the Purchase Agreement or any other document (or indirectly do so through replacement of the Purchase Agreement) that derogates from, conflicts with or is inconsistent with the provisions of this Addendum, except where this Addendum expressly permits the parties to agree or consent to an alternative arrangement. The provisions of this Addendum prevail over any such provision.

14. Time Periods, and How Notice Must Be Sent

- (a) Any written notice required under this Addendum may be given personally or sent by email, fax, courier or registered mail to the Purchaser or the Vendor at the address/contact numbers identified on page 2 or replacement address/contact numbers as provided in paragraph (c) below. Notices may also be sent to the solicitor for each party if necessary contact information is provided, but notices in all events must be sent to the Purchaser and Vendor, as applicable. If email addresses are set out on page 2 of this Addendum, then the parties agree that notices may be sent by email to such addresses, subject to paragraph (c) below.
- (b) Written notice given by one of the means identified in paragraph (a) is deemed to be given and received: on the date of delivery or transmission, if given personally or sent by email or fax (or the next Business Day if the date of delivery or transmission is not a Business Day); on the second Business Day following the date of sending by courier; or on the fifth Business Day following the date of sending, if sent by registered mail. If a postal stoppage or interruption occurs, notices shall not be sent by registered mail, and any notice sent by registered mail within 5



Business Days prior to the commencement of the postal stoppage or interruption must be re-sent by another means in order to be effective. For purposes of this section 14, Business Day includes Remembrance Day, if it falls on a day other than Saturday or Sunday, and Easter Monday.

- (c) If either party wishes to receive written notice under this Addendum at an address/contact number other than those identified on page 2 of this Addendum, then the party shall send written notice of the change of address, fax number, or email address to the other party in accordance with paragraph (b) above.
- (d) Time periods within which or following which any act is to be done shall be calculated by excluding the day of delivery or transmission and including the day on which the period ends.
- (e) Time periods shall be calculated using calendar days including Business Days but subject to paragraphs (f), (g) and (h) below.
- (f) Where the time for making a claim under this Addendum expires on a day that is not a Business Day, the claim may be made on the next Business Day.
- (g) Prior notice periods that begin on a day that is not a Business Day shall begin on the next earlier Business Day, except that notices may be sent and/or received on Remembrance Day, if it falls on a day other than Saturday or Sunday, or Easter Monday.
- (h) Every Critical Date must occur on a Business Day. If the Vendor sets a Critical Date that occurs on a date other than a Business Day, the Critical Date is deemed to be the next Business Day.
- (i) Words in the singular include the plural and words in the plural include the singular.
- (j) Gender-specific terms include both sexes and include corporations.

15. Disputes Regarding Termination

- (a) The Vendor and Purchaser agree that disputes arising between them relating to termination of the Purchase Agreement under section 11 shall be submitted to arbitration in accordance with the *Arbitration Act, 1991* (Ontario) and subsection 17(4) of the ONHWP Act.
- (b) The parties agree that the arbitrator shall have the power and discretion on motion by the Vendor or Purchaser or any other interested party, or of the arbitrator's own motion, to consolidate multiple arbitration proceedings on the basis that they raise one or more common issues of fact or law that can more efficiently be addressed in a single proceeding. The arbitrator has the power and discretion to prescribe whatever procedures are useful or necessary to adjudicate the common issues in the consolidated proceedings in the most just and expeditious manner possible. The *Arbitration Act, 1991* (Ontario) applies to any consolidation of multiple arbitration proceedings.
- (c) The Vendor shall pay the costs of the arbitration proceedings and the Purchaser's reasonable legal expenses in connection with the proceedings unless the arbitrator for just cause orders otherwise.
- (d) The parties agree to cooperate so that the arbitration proceedings are conducted as expeditiously as possible, and agree that the arbitrator may impose such time limits or other procedural requirements, consistent with the requirements of the *Arbitration Act, 1991* (Ontario), as may be required to complete the proceedings as quickly as reasonably possible.
- (e) The arbitrator may grant any form of relief permitted by the *Arbitration Act, 1991* (Ontario), whether or not the arbitrator concludes that the Purchase Agreement may properly be terminated.

For more information please visit www.tarion.com



SCHEDULE A
Types of Permitted Early Termination Conditions
1. The Vendor of a condominium home is permitted to make the Purchase Agreement conditional as follows:
(a) upon receipt of Approval from an Approving Authority for:

- (i) a change to the official plan, other governmental development plan or zoning by-law (including a minor variance);
- (ii) a consent to creation of a lot(s) or part-lot(s);
- (iii) a certificate of water potability or other measure relating to domestic water supply to the home;
- (iv) a certificate of approval of septic system or other measure relating to waste disposal from the home;
- (v) completion of hard services for the property or surrounding area (i.e., roads, rail crossings, water lines, sewage lines, other utilities);
- (vi) allocation of domestic water or storm or sanitary sewage capacity;
- (vii) easements or similar rights serving the property or surrounding area;
- (viii) site plan agreements, density agreements, shared facilities agreements or other development agreements with Approving Authorities or nearby landowners, and/or any development Approvals required from an Approving Authority; and/or
- (ix) site plans, plans, elevations and/or specifications under architectural controls imposed by an Approving Authority.

The above-noted conditions are for the benefit of both the Vendor and the Purchaser and cannot be waived by either party.

(b) upon:

- (i) receipt by the Vendor of confirmation that sales of condominium dwelling units have exceeded a specified threshold by a specified date;
- (ii) receipt by the Vendor of confirmation that financing for the project on terms satisfactory to the Vendor has been arranged by a specified date;
- (iii) receipt of Approval from an Approving Authority for a basement walkout; and/or
- (iv) confirmation by the Vendor that it is satisfied the Purchaser has the financial resources to complete the transaction.

The above-noted conditions are for the benefit of the Vendor and may be waived by the Vendor in its sole discretion.

2. The following definitions apply in this Schedule:

"Approval" means an approval, consent or permission (in final form not subject to appeal) from an Approving Authority and may include completion of necessary agreements (i.e., site plan agreement) to allow lawful access to and use and occupancy of the property for its intended residential purpose.

"Approving Authority" means a government (federal, provincial or municipal), governmental agency, Crown corporation, or quasi-governmental authority (a privately operated organization exercising authority delegated by legislation or a government).

3. Each condition must:

- (a) be set out separately;
- (b) be reasonably specific as to the type of Approval which is needed for the transaction; and
- (c) identify the Approving Authority by reference to the level of government and/or the identity of the governmental agency, Crown corporation or quasi-governmental authority.

4. For greater certainty, the Vendor is not permitted to make the Purchase Agreement conditional upon:

- (a) receipt of a building permit;
- (b) receipt of an occupancy permit; and/or
- (c) completion of the home.



SCHEDULE "B"
TO THE TARION ADDENDUM

Adjustments to the Purchase Price or Balance Due on Closing

Part I - Stipulated Amounts/ Adjustments

The following are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing, the dollar value of which is stipulated in the Purchase Agreement and set out below:

1. **\$500 plus H.S.T.**, as reimbursement to the Vendor for the extra legal fees incurred in the event the Purchaser's solicitor refuses to utilize the Vendor's desired electronic closing system (and correspondingly requires all interim or final closing documents to be photocopied and couriered, rather than transmitted electronically, over the internet pursuant to a secure designated portal) and which charge will correspondingly be increased to **\$1,000 plus H.S.T.**, if both interim and final closing documents must be photocopied and couriered, pursuant to **section 1.04(a)(viii) and section 4.07(a)(ii) of Schedule "A"** to the Purchase Agreement;
2. **\$750 plus H.S.T.**, as reimbursement to the Vendor for the extra legal fees incurred for having to revise, re-do, reproduce or re-send the interim or final closing package (eg. due to late changes in how the Purchaser wishes to take title, or the Purchaser adding or changing parking and/or locker units, etc., after the interim or final closing package has already been completed by the Vendor's solicitor) and which charge will correspondingly be increased to **\$1,500 plus H.S.T.**, if both the interim and final closing packages must be revised, re-done, reproduced or re-sent, pursuant to **section 1.04(a)(viii) and section 2.07 of Schedule "A"** to the Purchase Agreement;
3. **\$750 plus H.S.T.**, as reimbursement to the Vendor for the extra legal fees incurred for having to revise, re-do, reproduce or re-send the interim or final closing package (or any portion thereof) due to unilateral changes made to any of the interim or final closing documents by the Purchaser or the Purchaser's solicitor and who failed to inform the Vendor's solicitor regarding same prior to the scheduled Firm Occupancy Date or final closing date (as the case may be), and which changes were not ultimately acceptable to the Vendor or the Vendor's solicitor, and which charge will correspondingly be increased to **\$1,500 plus H.S.T.**, if both the interim and final closing packages must be revised, re-done, reproduced or re-sent due to any such unilateral changes so made by the Purchaser or the Purchaser's solicitor and ultimately deemed unacceptable by the Vendor or the Vendor's solicitor, pursuant to **section 2.07.1 of Schedule "AA"** to the Purchase Agreement;
4. **\$950 plus H.S.T.**, as reimbursement to the Vendor for the extra legal fees incurred in connection with the rectification of the Purchaser's outstanding default (eg. for all correspondence issued by the Vendor's solicitor in noting the Purchaser in default, tendering and terminating the transaction, and subsequently re-instating the transaction, and all other communications in connection therewith), pursuant to **section 1.04(a)(viii) and section 4.05(d)(iii) of Schedule "A"** to the Purchase Agreement;
5. **\$150 plus H.S.T.**, representing an administrative charge being exacted by the Vendor with respect to any cheque (whether for any deposit, or for extras or upgrades, or for any occupancy fees, or for any other portion of the Purchase Price) returned NSF, or upon which a stop payment has been ordered, pursuant to **section 1.04(a) (ix) of Schedule "A"** to the Purchase Agreement;
6. **\$400 plus H.S.T.**, representing a general administrative charge being exacted by the Vendor [ie. to cover the Vendor's Law Society transaction levy surcharge, and the cost of providing a status certificate on final closing (if the transaction is completed in the month in which the bulk final closings occur), and to reimburse the Vendor for the legal and administrative expenses incurred in connection with the handling of all deposit cheques and the issuance of a Form 4 - Certificate of Compliance in respect of each deposit cheque so received], pursuant to **section 1.04(a)(x) of Schedule "A"** to the Purchase Agreement;
7. **\$500 plus H.S.T.**, as reimbursement to the Vendor for the extra legal fees incurred for having to prepare and deliver an additional or revised interim or final closing package (eg. if the Purchaser fails to provide the name and address of the Purchaser's solicitor, or if the Purchaser changes lawyers mid-stream, etc., after the interim or final closing package has already been completed by the Vendor's solicitor), pursuant to **section 2.04 of Schedule "A"** to the Purchase Agreement;
8. **\$500 plus H.S.T.**, as reimbursement to the Vendor for the extra time and expense incurred in connection with having to send notices (and any accompanying documents) to the Purchaser by regular mail or registered mail [either because the Purchaser chooses not to have notices sent by e-mail (through or in conjunction with the Vendor's secure electronic portal), or because the e-mail address given by the Purchaser to the Vendor is no longer the Purchaser's correct or current e-mail address (and the Purchaser has failed to notify the Vendor or the Vendor's solicitor of the Purchaser's correct or current email address), or because the Purchaser's e-mail address box is full or otherwise not accepting incoming e-mails, or the Vendor believes (for whatever reason) that its e-mail deliveries to the Purchaser are not being received by the Purchaser], pursuant to **section 4.03(d) of Schedule "AA"** to the Purchase Agreement; and
9. **\$950 plus H.S.T.**, as reimbursement to the Vendor for the extra legal fees incurred in connection with the rectification of the Purchaser's outstanding default, prior to the termination of the transaction as a consequence of such default (eg. for all correspondence issued by the Vendor's solicitor in noting the Purchaser in default and/or tendering, and having to prepare for closing the transaction again), pursuant to **section 5.06(e) of Schedule "A"** to the Purchase Agreement.

Part II - All Other Adjustments, to be determined in accordance with the terms of the Purchase Agreement

The following are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing which will be determined after signing the Purchase Agreement, all in accordance with the terms of the Purchase Agreement:

1. All occupancy fees owing or payable pursuant to **section 1.04(a)(ii) and section 2.08(c) of Schedule "A"** to the Purchase Agreement;

2. All common expenses attributable to the purchased unit(s), so owing or payable pursuant to **section 1.04(a)(ii) of Schedule "A"** to the Purchase Agreement;
3. All realty taxes attributable to the purchased unit(s), so owing or payable pursuant to **section 1.04(a)(iii) of Schedule "A"** to the Purchase Agreement;
4. The amount of the enrolment fee paid or payable by the Vendor to Tarion Warranty Corporation in respect of the dwelling unit being acquired by the Purchaser, plus the H.S.T. exigible in connection therewith, pursuant to **section 1.04(a)(iv) of Schedule "A"** to the Purchase Agreement;
5. An amount reflecting the increase in the aggregate of all development charges and/or education development charges paid by or on behalf of the Vendor upon the issuance of a building permit for the construction of the Condominium, and attributable to the dwelling unit being acquired by the Purchaser, plus any H.S.T. exigible in connection therewith, **if applicable** pursuant to **section 1.04(a)(v) of Schedule "A"** and **section 1.04(a)(v) of Schedule "AA"** to the Purchase Agreement;
6. An amount reflecting the aggregate of all mortgage application fees, mortgage inspection fees and/or mortgage insurance fees payable in connection with any high-ratio mortgage being given or assumed by the Purchaser on the final closing of this transaction, plus the H.S.T. exigible in connection therewith, **if applicable** pursuant to **section 1.04(a)(vi) of Schedule "A"** to the Purchase Agreement;
7. An amount reflecting the Vendor's cost of supplying and installing each meter or check meter (eg. for electricity, water, thermal energy, heating/cooling, and/or gas service respectively) appurtenant to the dwelling unit and any exclusive use common element area appurtenant thereto (including without limitation, the electricity check meter appurtenant to any electrical parking unit, if applicable) being acquired by the Purchaser, plus the H.S.T. exigible in connection therewith, pursuant to **section 1.04(a)(vii) of Schedule "A"** to the Purchase Agreement;
8. An amount reflecting the sum of money paid or payable by the Vendor to any local utility authority or provider, as a utility security charge, as a prerequisite to such utility authority providing its utility service to this Condominium, and attributable to the dwelling unit being acquired by the Purchaser, plus the H.S.T. exigible in connection therewith, **if applicable** pursuant to **section 1.04(a)(viii) of Schedule "A"** to the Purchase Agreement;
9. An amount equivalent to the federal and/or provincial HST new housing rebates that the Purchaser does not qualify for (or in respect of which the Vendor believes that the Purchaser does not qualify for, or no longer qualifies for), pursuant to **section 1.04(b) or section 1.04(c) of Schedule "A"** to the Purchase Agreement;
10. An amount reflecting the aggregate of any withholding tax required to be remitted by the Vendor to the Canada Revenue Agency in connection with any interest income arising from the statutory interest accruing and payable by the Vendor with respect to any non-resident Purchaser's deposits, **if applicable**, pursuant to **section 1.04(c) of Schedule "A"** to the Purchase Agreement;
11. An amount equivalent to the HST exigible with respect to any or all of the adjustments outlined in the statement of adjustments at final closing that are payable by the Purchaser, pursuant to **section 1.04(d)(i) of Schedule "A"** to the Purchase Agreement;
12. An amount reflecting the purchase price of all extras and/or upgrades so acquired from the Vendor by the Purchaser and that has not been fully paid for by the Purchaser at the time of installation, or that has not been reflected in an addendum to the Purchase Agreement which correspondingly increases the purchase price or the balance due on closing by the aggregate amount of all such extras or upgrades, pursuant to **section 3.05(e) of Schedule "A"** to the Purchase Agreement;
13. Interest on the outstanding balance of the purchase price that is due and payable on the scheduled interim-occupancy closing date, at the stipulated rate of 12% per annum, and accruing from the interim-occupancy closing date to and until the expiry of any agreed-upon extension thereof, pursuant to **section 4.05(d)(i) of Schedule "A"** to the Purchase Agreement;
14. Interest on the outstanding balance of the purchase price that is due and payable on the scheduled interim-occupancy closing date, at the stipulated rate of 12% per annum, and accruing from the interim-occupancy closing date to and until the date of the ultimate payment thereof (ie. from the date of the Purchaser's default, to and until the date of rectification of said default), pursuant to **section 4.05(d)(ii) of Schedule "A"** to the Purchase Agreement;
15. Interest on the outstanding balance of the purchase price that is due and payable on the scheduled final closing date, at the stipulated rate of 12% per annum, and accruing from the final closing date to and until the expiry of any agreed-upon extension thereof, pursuant to **section 4.05(d)(i) of Schedule "A"** to the Purchase Agreement;
16. Interest on the outstanding balance of the purchase price that is due and payable on the scheduled final closing date, at the stipulated rate of 12% per annum, and accruing from the final closing date to and until the date of the ultimate payment thereof (ie. from the date of the Purchaser's default, to and until the date of rectification of said default), pursuant to **section 4.05(d)(ii) of Schedule "A"** to the Purchase Agreement;
17. Interest on the outstanding balance of the purchase price that is due and payable on the scheduled final closing date, at the stipulated rate of 12% per annum, and accruing from the final closing date to and until the extended final closing date so established unilaterally by the Vendor, pursuant to **section 4.05(f)(ii) of Schedule "A"** to the Purchase Agreement; and
18. An amount reflecting the aggregate of any new tax or increased tax, or comparable charge, that may be levied or exacted at any time hereafter by any municipal, provincial, federal or other governmental authority or agency in connection with this Agreement and/or the purchase and sale transaction arising herefrom, such as (but not limited to) a new property transfer tax or otherwise (hereinafter collectively referred to as the "New Tax"), irrespective of whether the New Tax is (by virtue of the legislation authorizing and/or charging same) primarily exigible against (or payable by) the Vendor and/or the Purchaser alone, pursuant to **section 1.04(f) of Schedule "AA"** to the Purchase Agreement.

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SCHEDULE A - GENERAL TERMS AND PROVISIONS

ARTICLE I - DEFINITIONS, EXPLANATIONS, ADJUSTMENTS AND ACCEPTANCE OF OFFER

DEFINITIONS

1.01 In addition to any other words or terms defined elsewhere in this Agreement (and specifically in addition to the definitions outlined in section 12 on pages 7 and 8 of the Tarion Addendum), the defined words or terms set out below shall, whenever same are used or referred to in this Agreement, have the meanings respectively ascribed to them as follows, namely:

- a) the "Act" means *the Condominium Act 1998 S.O. 1998, as amended*, and the regulations promulgated thereunder from time to time, whenever same is referred to anywhere in this Agreement except for the Tarion Addendum (in which latter case the reference to "Act" in the Tarion Addendum means the *Ontario New Home Warranties Plan Act R.S.O. 1990, as amended*, including the regulations enacted thereunder);
- b) the "Agent" means Del Realty Incorporated, and any sales representative(s) employed or retained by Del Realty Incorporated acting on behalf of the Vendor in connection with the sale of any units in the Condominium;
- c) a "Business Day" means any day other than: Saturday; Sunday; New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day; and any special holiday proclaimed by the Governor General or the Lieutenant Governor; and where New Year's Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, then the following Monday is not a Business Day; and where Christmas Day falls on a Saturday or a Sunday, then the following Monday and Tuesday are not Business Days; and where Christmas Day falls on a Friday, then the following Monday is not a Business Day;
- d) the "Closing Date" or the "Date of Closing" or "Closing" means that date designated by the Vendor's solicitor as the final closing date on which a registrable transfer of title to the Property will be delivered to (or tendered upon) the Purchaser or the Purchaser's solicitor, and which date shall be at least 10 days after written notice is given by the Vendor's solicitor to the Purchaser or the Purchaser's solicitor that the Creating Documents (as hereinafter defined) have been registered on title to the Lands, provided however that in no event shall such date be later than 16 months from the Firm Occupancy Date (as hereinafter defined), or any extension or acceleration thereof established or implemented by the Vendor pursuant to (and in accordance with) the provisions of the Tarion Addendum;
- e) the "Condominium" means the condominium which will be registered against the Lands pursuant to the provisions of the Act, and the condominium corporation created thereby (and sometimes hereinafter referred to as this or the "Condominium");
- f) the "Condominium Documents" means the Creating Documents (as hereinafter defined), the by-laws and rules of the Condominium, the disclosure statement and budget statement, together with all other documents and agreements which the Vendor and/or the declarant of the Condominium wishes to have the Condominium enter into subsequent to its registration as a condominium under the Act but prior to the registration of the first transfer of title to any unit therein, as may be amended from time to time;
- g) the "Creating Documents" means the declaration and description (as such terms are defined in the Act), which are intended to be registered against the Lands and which will serve to create the Condominium, as may be amended from time to time;
- h) the "Delayed Occupancy Date" means the date established by the Vendor in accordance with the provisions of section 3 of the Tarion Addendum, on which date the Vendor agrees to provide occupancy of the Unit to the Purchaser in the event that the Vendor cannot provide occupancy thereof on the Firm Occupancy Date (as hereinafter defined) and is correspondingly unable to extend the Firm Occupancy Date pursuant to the provisions of the Tarion Addendum;
- i) the "Development Levies" shall mean the aggregate of all development charges, education development charges, and any other similar charges or levies [including without limitation, any development levies or charges, density bonus levies or charges, parkland levies (or levies in lieu of any parkland dedication), school levies or charges, library levies, community centre levies and/or community improvement levies or charges, local and/or regional public transit or transit improvement levies (including Go Transit levies and/or related charges), subway levies and/or subway improvement levies, etc.] payable to (or at the insistence of) the local municipality, any regional, provincial or other governmental authority or agency, and/or any public or private school board [irrespective of whether same are charged, levied, imposed or payable pursuant to *the Development Charges Act 1997, S.O. 1997, as amended*, *the Education Act S.O. 1997, as amended*, and/or any other applicable legislation, or pursuant to the provisions of any agreement entered into with the local municipality, any regional, provincial or other governmental authority or agency, and/or any public or private school board, and exacted or imposed pursuant to a development charges by-law enacted by the local municipality or regional authority and/or an education charges by-law passed by a school board, or alternatively imposed pursuant to the provisions of any agreement entered into with the local municipality, any regional, provincial or other governmental authority or agency, and/or any public or private school board] as a pre-requisite to, or otherwise in connection with, the development of the Lands (or any portion thereof) and/or the development of the Condominium thereon, and ultimately assessed against the Vendor and/or the Lands, or any portion thereof (and correspondingly exigible and payable by or on behalf of the Vendor);
- j) the "First Mortgagee" means the financial or lending institution designated by the Vendor to:
 - i) formally approve the Purchaser for a conventional or high-ratio first mortgage loan, if necessary, in order to enable the Purchaser to complete this transaction on an all-cash basis to the Vendor on the Closing Date, and which financing (if ultimately provided by the First Mortgagee) shall be secured by way of a first mortgage against the Property given by the Purchaser to the First Mortgagee on the Closing Date; **OR**
 - ii) to confirm to the Vendor that the Purchaser has the financial resources on his or her own to complete this transaction on an all-cash basis to the Vendor, without the necessity of third party financing whatsoever;

and which financial or lending institution may constitute, without limitation, the Vendor or any corporation(s) or other legal entity affiliated or associated with (or related to) the Vendor;
- k) the "Firm Occupancy Date" means the firm date on which the Vendor agrees to provide occupancy of the Unit to the Purchaser, or any extension or acceleration thereof established or implemented by the Vendor in accordance with the provisions of the Tarion Addendum, and on which date the Purchaser is correspondingly obliged to take possession and "interim occupancy" of the Unit as expressly contemplated in section 80 of the Act, and to concomitantly pay the Vendor the monies outlined in paragraph 1(a)(iv) on page 1 of this Agreement, and to commence paying the monthly occupancy fees outlined in Section 2.08 (c) hereof, and which date:
 - i) shall be established by the Vendor in accordance with the provisions of the Tarion Addendum; and
 - ii) shall in no event go beyond the Outside Occupancy Date (as hereinafter defined);

provided however that if the Condominium Documents (exclusive of the disclosure statement and budget statement) have been registered on title to the Lands prior to the Firm Occupancy Date and the Vendor's solicitors have notified the Purchaser or the Purchaser's solicitor of same, and the Vendor's solicitors have also confirmed in writing to the Purchaser or the Purchaser's solicitor that they are ready to deliver on the Firm Occupancy Date a registrable deed/transfer of title to the Property to the Purchaser in accordance with the terms and provisions of this Agreement, then the Firm Occupancy Date shall also constitute (and be considered and construed as) the "Closing Date" under this Agreement, and the provisions of this Agreement shall then be read and construed as amended accordingly, *mutatis mutandis*, to give effect to same;
- l) the "First Tentative Occupancy Date" means the first date outlined in paragraph 1, under the heading "Critical Dates", on page 1 of the Tarion Addendum, and constitutes the first tentative date on which the Vendor estimates, at the time of executing this Agreement, that the Purchaser will be able

(and correspondingly obliged) to occupy the Unit, provided however that the tentative occupancy date may be extended or accelerated by the Vendor pursuant to (and in accordance with) the provisions of the Tarion Addendum;

- m) the "**Governmental Authorities**" means the local municipality in which the Lands are situate, together with any regional, provincial, federal and/or other governmental authorities or agencies having jurisdiction over the development of the Lands and the construction of the Condominium thereon;
- n) the "**Lands**" shall mean those lands and premises more particularly described in Section 1.01(n) of Schedule "AA" annexed hereto, on the express understanding and agreement that the Lands (or any portion thereof) may be subject to the additional easements, restrictions and/or agreements more particularly described in Section 4.01 and 4.02 (a) hereof [and/or in Section 4.02 (a) of Schedule "AA" annexed hereto] and the Lands are more particularly outlined or illustrated on the site plan sketch annexed hereto as Schedule "D" (and sometimes hereinafter collectively referred to as the "**Real Property**");
- o) the "**Occupancy Agreement**" means the agreement described in Section 2.09(a) hereof which is required to be executed by the Purchaser prior to occupying or taking possession of the Property;
- p) the "**Outside Occupancy Date**" means the second date outlined in paragraph 1, under the heading "Critical Dates", on page 1 of the Tarion Addendum, and constitutes the latest date that the Vendor agrees, at the time of executing this Agreement, to provide occupancy of the Unit to the Purchaser;
- q) the "**Property**" means those proposed units described in paragraph 1 on page 1 of this Agreement being purchased by the Purchaser hereunder, together with the undivided interest in the common elements appurtenant to such units, and in any common elements designated in the Creating Documents as being for the exclusive use of the owner of such units;
- r) the "**Purchase Price**" means the purchase price of the Property as defined in paragraph 1 on page 1 of this Agreement, and which figure or amount shall be increased by the price or value of all extras, changes and/or upgrades to the Unit (as hereinafter defined) agreed upon by the Vendor and the Purchaser (as evidenced by one or more separate addendums to this Agreement, duly executed at any time hereafter by all parties hereto), on the express understanding and agreement that all monies paid by or on behalf of the Purchaser prior to Closing on account of any or all of such extras, changes and/or upgrades to the Unit shall be deemed and construed, for all purposes, to be additional deposits on account of the Purchase Price (and shall be held in trust, with interest accruing thereon at the prescribed rate, in accordance with the Act), and the statement of adjustments on final closing (including the value of consideration or figure for land transfer tax purposes set out in the deed/transfer) shall reflect the foregoing;
- s) the "**Purchaser**" means the purchaser as defined in paragraph 1 on page 1 of this Agreement;
- t) "**Tarion**" means Tarion Warranty Corporation, which oversees and enforces the statutory warranties applicable to all new homes and condominium dwelling units pursuant to the provisions of the *Ontario New Home Warranties Plan Act R.S.O. 1990, as amended*;
- u) the "**Unit**" means the dwelling unit described in paragraph 1 on page 1 of this Agreement which comprises part of the Property, together with its appurtenant interest in the common elements; and
- v) the "**Vendor**" means the vendor as defined in paragraph 1 on page 1 of this Agreement.

ALLOCATION OF PARKING, LOCKER AND OTHER ANCILLARY UNITS

- 1.02 a) Subject to the overriding provisions of Section 1.02 (b) below, it is understood and agreed that the Purchaser shall not be entitled to any parking unit(s), locker unit(s) and/or any other unit(s) ancillary to the dwelling unit being acquired hereunder, unless the unit and level number attributable to any such parking unit(s), locker unit(s) and/or other ancillary unit(s) has been inserted or otherwise clearly indicated on page 1 of this Agreement, or alternatively the initials "TBA" have been inserted in the space beside the reference to any parking unit(s), locker unit(s) and/or any other ancillary unit(s), in order to confirm that same is being included in the purchase price for the dwelling unit.
- b) Where the initials "TBA" have been inserted in the space beside the reference to any parking unit(s), locker unit(s) and/or any other ancillary unit(s), then the initials "TBA" shall mean "to be assigned by the Vendor in its sole, unfettered and unchallenged discretion, and confirmed by written notice delivered to the Purchaser or the Purchaser's solicitor on or before the earlier of the Firm Occupancy Date or the Closing Date". In such circumstances, the Vendor shall have the unilateral right, exercisable in its sole, unfettered and unchallenged discretion, to allocate or assign any such parking unit(s), locker unit(s) and/or other ancillary unit(s) to the Purchaser, wheresoever such unit(s) is/are located in this Condominium [and irrespective of its/their proximity to any other unit(s) acquired by the Purchaser hereunder], in such manner as the Vendor deems appropriate, on or before the earlier of the Firm Occupancy Date or the Closing Date, or any extension thereof, and the Purchaser shall be correspondingly obliged to accept title thereto, and to pay all common expenses attributable to same after final closing. Moreover, if any adjacent or neighbouring condominium is being developed (or has been developed) by the Vendor or a related company, then notwithstanding anything hereinbefore provided to the contrary, it is understood and agreed that in lieu of the Vendor allocating or assigning to the Purchaser any parking unit(s), locker unit(s) and/or other ancillary unit(s) situate within this Condominium as aforesaid, the Vendor shall have the unilateral right (exercisable in its sole, unfettered and unchallenged discretion) to allocate or assign any parking unit(s), locker unit(s) and/or other ancillary unit(s) situate within the said adjacent or neighbouring condominium to the Purchaser, wheresoever such unit(s) is/are located in said adjacent or neighbouring Condominium, and the Purchaser shall be correspondingly obliged to accept title thereto, and to pay all common expenses attributable to same after final closing.
- c) This Condominium may contain one or more non-visitor handicapped parking units (hereinafter individually referred to as a "**Handicapped Parking Unit**" and collectively referred to as the "**Handicapped Parking Units**"), and if so, same will be clearly designated for handicapped parking on the description plan sheet(s) filed concurrently with the registered declaration of this Condominium. Non-disabled owners and/or occupants of a Handicapped Parking Unit (including a disabled unit owner who is not personally using or occupying any Handicapped Parking Unit) shall be obligated, upon notification by the condominium corporation, to exchange, at no cost to a disabled driver who is a resident of this Condominium (and who holds a valid disabled parking permit that is appropriately displayed or visible in their vehicle), the use of the Handicapped Parking Unit with the disabled driver's non-handicapped parking unit, throughout the duration of such disabled person's residency in this Condominium.

DEPOSIT PROTECTION

- 1.03 All deposits paid by the Purchaser shall be held by the Vendor's solicitors in a designated trust account, and shall be released only in accordance with the provisions of Section 81(7) of the Act and the regulations thereto (or any successor statutory provision governing condominium deposit monies, if the Act is hereafter replaced or amended). Without limiting the generality of the foregoing, and for greater clarity, it is understood and agreed that with respect to any deposit monies received from the Purchaser in excess of \$20,000.00, the Vendor's solicitors shall be entitled to withdraw such deposit monies from said designated trust account prior to the final closing of this transaction, if and only when the Vendor obtains one or more excess condominium deposit insurance policies (issued by any insurer selected by the Vendor, authorized to provide excess condominium deposit insurance in Ontario) insuring the deposit monies so withdrawn (or intended to be withdrawn), and delivers the said excess condominium deposit insurance policies (duly executed by or on behalf of the insurer and the Vendor) to the Vendor's solicitors holding the deposit monies for which said policies have been provided as security, in accordance with the provisions of Section 21 of O.Reg. 48/01 to the Act.

ADJUSTMENTS & HST PROVISIONS

- 1.04 a) It is understood and agreed that all statutory interest earned or accrued on the Purchaser's deposits, together with compound interest thereon as contemplated by section 82(5) of the Act, shall be paid or credited to the Purchaser in the statement of adjustments on the Closing Date, and with all adjustments hereinafter described to be reflected in the statement of adjustments prepared by the Vendor or the Vendor's solicitors in connection with the final closing of this transaction. The Purchase Price shall be adjusted to reflect the following items (where applicable, as determined by the Vendor in its sole and unfettered discretion), which shall be apportioned and allowed to the Closing Date, with that day itself to be apportioned to the Purchaser, namely:
- i) **rent or occupancy fees** owing by the Purchaser for the interim occupancy period prior to the Closing Date (if applicable);

- ii) **common expense contributions** attributable to the Property, with the Purchaser being obliged to complete all requisite account information in, and correspondingly execute and deliver to the Vendor's solicitors on or before the final closing of this transaction, the **pre-authorized cheque plan form prepared by the Vendor's solicitor** [and provided to the Purchaser's solicitor via the eClose website referred to in Section 4.07 hereof], **for the payment of all common expenses hereafter due or owing to the condominium corporation in respect of the Property from time to time, accompanied by an unsigned cheque marked "VOID" from the Purchaser's bank account** on which all such common expense payments shall be drawn or deducted; or alternatively at the Vendor's sole option, the Purchaser shall deliver to the Vendor's solicitors on or before the final closing of this transaction, a series of post-dated cheques payable to the condominium corporation for the common expense contributions attributable to the Property, for such period of time after the Closing Date as determined by the Vendor (but in no event for more than one year);
- iii) **realty taxes**, with same being adjusted in a manner which either reflects the prevailing assessment of the Property as at the Closing Date (for example, based on a vacant land value assessment only, or a vacant land value assessment and partial building value assessment), or alternatively at the Vendor's sole option, adjusted as if the Property had been fully completed, separately assessed (including any supplementary or full building value assessment with respect thereto), and fully paid for by the Vendor, notwithstanding that said realty taxes may not have been levied, assessed and/or paid (in whole or in part) by the Closing Date, on the express understanding that if, in fact, any assessed realty taxes attributable to the Property have not been paid in accordance with the manner that same have been adjusted for in the statement of adjustments, then the Vendor shall provide the Purchaser on Closing with its written undertaking to pay same in accordance with the statement of adjustments forthwith after closing, and the Purchaser shall accept said undertaking and complete the transaction in accordance therewith. The aforementioned realty tax adjustment shall be subject to re-adjustment, as and when the actual final assessment for the Property (including any supplementary or full building value assessment with respect thereto) is available. In addition, the Purchaser shall, on the Closing Date, pay and/or reimburse the Vendor proportionately for any realty taxes required to be paid by the Vendor to the local municipality for the balance of the year in which the Closing Date occurs, and/or for the succeeding year after Closing. The Purchaser also expressly covenants and agrees that:
- A. after the final closing of this transaction, the Purchaser shall forthwith deliver copies of all assessment notices and supplementary realty tax bills that have been issued in respect of the Unit (relating to any portion of the year in which the final closing of this transaction has been completed), along with satisfactory evidence of the Purchaser's payment of all such supplementary realty tax bills, directly to the Vendor at its address for service, as soon as reasonably possible after the Purchaser's receipt of same, and in any event on or before the earlier of:
1. 60 days prior to the expiry of the appeal period applicable to any such assessment of realty taxes; and
 2. 30 days following the Purchaser's receipt of such assessment notices and/or supplementary realty tax bills;
- B. if any re-adjustment with respect to the realty taxes is sought by the Purchaser after final closing, then any such re-adjustment shall also reflect (or take into account) the realty tax component of the monthly occupancy fees payable by the Purchaser to the Vendor (if applicable); and
- C. where the Vendor believes that there is an error in the final or supplementary realty tax assessment attributable to the Unit (whether due to an incorrect building value assessment, or an incorrect possession or interim-occupancy closing date, or otherwise), then:
1. the Purchaser shall (as part of, and as a prerequisite to, the completion of any re-adjustment of realty taxes with the Vendor) deliver to the Vendor a standard form letter (that has been prepared or provided by the Vendor) executed by the then-current registered owner of the Unit, formally appealing such realty tax assessment, together with an irrevocable authorization & direction addressed to the tax department of the city, town or other municipal authority in which the Lands are situate (hereinafter sometimes referred to as the "City") and to the Municipal Property Assessment Corporation, expressly authorizing the Vendor to pursue and conduct the appeal of the realty tax assessment in respect of the Unit on behalf of the Purchaser (or the then-current registered owner of the Unit) at the Vendor's sole cost and expense, on the express understanding and agreement that any monies which the City ultimately agrees to refund to the Purchaser (or the then-current registered owner of the Unit) pursuant to (or as a result of) the successful appeal of such realty tax assessment, shall be considered for all purposes as a *pro tanto* payment made by or on behalf of the Vendor to the Purchaser in connection with the overall re-adjustment of realty taxes between the parties hereto, **provided however that any penalties levied and/or interest charges owing as a result of the late payment or non-payment of the final or supplementary realty taxes so assessed (despite same being assessed in error and/or being appealed) shall nevertheless be the sole responsibility of the Purchaser to bear;** and
 2. any re-adjustment of the realty taxes between the Vendor and the Purchaser shall be completed forthwith following (and based on the results of) any such appeal of the final or supplementary realty tax assessment attributable to the Unit;
- iv) **the amount of the Tarion enrolment fee** paid by or on behalf of the Vendor with respect to the Unit (together with any provincial and/or federal taxes exigible with respect thereto), shall be reimbursed by the Purchaser to and in favour of the Vendor, as an adjustment on Closing;
- v) **the amount of any increase in the Development Levies** (as hereinbefore defined) assessed against the Vendor and/or the Lands (or any portion thereof) in connection with the development of the Condominium thereon, determined as the difference between the amount of the Development Levies that would have been assessed and exigible as at the date that the first agreement of purchase and sale has been entered into by the Vendor with any purchaser of a dwelling unit in this Condominium (hereinafter referred to as the "**First Sale Date**"), and the amount of the Development Levies ultimately assessed, exigible and payable by or on behalf of the Vendor at the time that a superstructure building permit for this Condominium or a full final building permit (including where applicable, the excavation and shoring permit, the foundation permit and the super-structure permit) lawfully authorizing the construction of this Condominium has been issued by the building department of the relevant municipality (hereinafter referred to as the "**Final Permit Date**"), on the express understanding and agreement that:
- A. such portion of the Development Levies that are unit specific, or that are charged or levied on a per dwelling unit basis (ie. that are based on the number of dwelling units, or the size or bedroom count of each dwelling unit, such as development charges and/or education development charges) shall be allocated to the Unit based on the unit specific levy that is attributable to the Unit and/or its corresponding size or bedroom count, and the increase in such Development Levies between the First Sale Date and the Final Permit Date shall be determined accordingly;
- B. the balance of the Development Levies that are not unit specific, and that are charged or levied on any basis other than a per dwelling unit basis (ie. that are based on the size or area of any commercial/retail units in the Condominium, or based on the overall size or area of the development site, such as parkland levies or levies in lieu of parkland dedication that are based on a percentage of the market value referable to the size or area of the land being developed) shall be allocated to the Unit by dividing the aggregate amount of such Development Levies by the total number of dwelling units and commercial/retail units proposed to be created within the Condominium, in order to arrive at a per dwelling unit or per commercial/retail unit amount, and the increase in such Development Levies so attributable to the Unit between the First Sale Date and the Final Permit Date shall be determined accordingly; and
- C. any such increase in the Development Levies so attributable to the Unit (or so determined or calculated in respect of the Unit) shall be paid by the Purchaser to the Vendor by way of a corresponding charge to the Purchaser (or alternatively by way of a corresponding credit to the Vendor) in the statement of adjustments on the final closing of this transaction;
- vi) **all mortgage application fees, mortgage inspection fees and/or mortgage insurance fees paid or payable in connection with any high-ratio mortgage being given or assumed by the Purchaser on Closing**, if applicable, shall be paid by the Purchaser (or reimbursed by the Purchaser to and in favour of the Vendor) as an adjustment on Closing;
- vii) **the cost of supplying and installing any electricity, water, thermal energy and/or gas meter(s) appurtenant to the Unit** [and/or any check meter, sub-meter or consumption meter installed as an appurtenance to the Unit that measures the Unit's separate or individual consumption (or assists in calculating its proportionate consumption) of any electricity, water, thermal energy and/or gas service so consumed or utilized, including any thermal check meter(s) installed as an appurtenance to each fan coil unit or system within each dwelling unit, or any similar equipment], **if applicable** (ie in those instances where the Unit is individually metered, check metered or sub-metered for any or all of such utility services), **together with all federal and provincial taxes exigible in connection with any such meters or check meters**, shall be paid by the Purchaser (or reimbursed by the Purchaser to and in favour of the Vendor) as an adjustment on Closing; and

- viii) **any legal fees and disbursements charged to the Purchaser for not utilizing the Electronic Closing System** (as hereinafter defined) to facilitate the interim occupancy and final closing of this transaction, pursuant to the provisions of Section 4.07(a)(ii) hereof, and/or charged to the Purchaser for implementing any changes to any of the interim closing and/or final closing documents that have been requested by the Purchaser and ultimately agreed to by the Vendor, or for reproducing and resending any interim closing package or final closing package (or any portion thereof), pursuant to the provisions of Section 2.07 hereof, and/or charged to the Purchaser as reimbursement of the Vendor's reasonable legal fees and disbursements incurred in connection with any default by the Purchaser (and/or the rectification thereof) pursuant to the provisions of Section 4.05(d)(iii) and Section 5.06 (e) hereof, together with all federal and provincial taxes exigible in connection therewith;
- ix) **an administrative charge of \$150.00** plus all federal and provincial taxes exigible in connection therewith, **for each cheque** that is submitted or delivered by or on behalf of the Purchaser for payment of any portion of the Purchase Price, or for any extras or upgrades so ordered, or for any portion of the occupancy fees so payable, **which is returned "NSF"**, or upon which a **"stop payment"** has been ordered, or which is otherwise not honoured by the Purchaser's or drawer's bank for any reason whatsoever, which administration charge shall be payable by the Purchaser contemporaneous with the submission or delivery of any replacement cheque, or at the Vendor's option, shall be charged to the Purchaser in the statement of adjustments on Closing;
- x) **a general administrative charge of \$400.00** (plus all federal and provincial taxes exigible in connection therewith), to pay or reimburse the Vendor for the following items, namely:
- A. **the real estate transaction levy surcharge imposed by the Law Society of Upper Canada (or by its designated insurer LawPro) upon the Vendor** or the Vendor's solicitors, in respect of the completion of this transaction and the registration of any transfer or charge in connection therewith;
- B. **the status certificate issued to the Purchaser by or on behalf of the condominium corporation** (in respect of the Property) in connection with the completion of this transaction, and which certificate shall be delivered electronically by the Vendor's solicitor (ie. by uploading same on the eClose website, for ultimate retrieval and review by the Purchaser's solicitor) on or before the final closing of this transaction, on the express understanding and agreement that if the final closing of this transaction occurs any time after the last day of the month in which the bulk final closing date (as scheduled by the Vendor's solicitor) transpires, then the Purchaser shall be obliged to obtain the status certificate directly from the Condominium's property manager; and
- C. **the handling of all deposit cheques and the issuance of all required Form 4 - Certificates of Compliance** under O'Reg 49/01 pursuant to subsection 81(6) of the Act in connection with all deposit cheques made payable to (and correspondingly received by) the Vendor's solicitors; and
- xi) in the event that the Vendor, as a prerequisite to the procurement and provision of continuous utility service(s) to this Condominium, is required to pay or provide the local public utility authority or provider (for electricity, gas and/or water) with cash security or a letter of credit (hereinafter called the **"Utility Security Charge"**), then in such circumstances **the Vendor shall be entitled to a proportionate reimbursement of the Utility Security Charge from the Purchaser**, by charging the Purchaser in the statement of adjustments with that proportion of the Utility Security Charge which is **equivalent to the common interest allocation attributable or referable to the Property, as set forth in Schedule "D" to the declaration** of this Condominium.
- b) It is acknowledged and agreed by the parties hereto that the Purchase Price already includes a component equivalent to the combined federal and provincial single sales tax or harmonized sales tax exigible with respect to this purchase and sale transaction less each of the respective federal and provincial new housing rebates, if applicable (hereinafter referred to as the **"HST"**), and that the Vendor shall remit the HST to the Canada Revenue Agency on behalf of the Purchaser forthwith following the completion of this transaction. **The Purchaser hereby warrants and represents to the Vendor that the Purchaser qualifies for (and is eligible for):**
- i) **the new housing rebate applicable to the provincial component of the HST**, for that portion of the Purchase Price (exclusive of the HST component thereof) that is \$400,000.00 or less (hereinafter referred to as the **"Eligible Provincial Rebate"**); and
- ii) **the new housing rebate applicable to the federal component of the HST**, in those circumstances where the Purchase Price (exclusive of the HST component thereof) is less than \$450,000.00 (hereinafter referred to as the **"Eligible Federal Rebate"**);

(with the Eligible Provincial Rebate and the Eligible Federal Rebate being hereinafter collectively referred to as the **"Rebate"**). Without limiting the generality of the foregoing, the Purchaser hereby expressly warrants and confirms that the Purchaser is a natural person who is acquiring the Property with the intention of being the sole beneficial owner thereof on Closing (and not as the agent or trustee for or on behalf of any other party or parties), and covenants that from and after the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) the Purchaser or one or more of the Purchaser's relations (as such term is defined in *the Excise Tax Act*) shall personally occupy the Property as his, her or their primary place of residence, for such period of time as shall be required by the applicable legislation in order to entitle the Purchaser to the Rebate (and the ultimate assignment thereof to and in favour of the Vendor) in respect of the Purchaser's acquisition of the Property. The Purchaser further warrants and represents that the Purchaser has not claimed (and hereby covenants that the Purchaser shall not hereafter claim), for the Purchaser's own account, any part of the Rebate in connection with the Purchaser's acquisition of the Property, save as otherwise hereinafter expressly provided or contemplated. The Purchaser hereby irrevocably assigns and transfers to and in favour of the Vendor all of the Purchaser's rights, interests and entitlements to the Rebate (and concomitantly releases all of the Purchaser's claims or interests in and to the Rebate, to and in favour of the Vendor), and hereby irrevocably authorizes and directs the Canada Revenue Agency to pay or credit the Rebate directly to the Vendor, on the express understanding and agreement that if the Purchaser is not eligible for the Rebate (or any portion thereof), or if the Rebate is not capable of being fully and lawfully assigned to the Vendor, then the Purchaser shall be obliged to pay to the Vendor on or before Closing (or alternatively the Purchaser shall be charged in the statement of adjustments on final closing with) an amount equivalent to the Rebate, or that portion of the Rebate to which the Purchaser is not entitled. In addition, the Purchaser shall execute and deliver to the Vendor, forthwith upon the Vendor's request for same (and in any event on or before Closing), all requisite documents and assurances that the Vendor may reasonably require in order to confirm the Purchaser's entitlement to (or eligibility for) the Rebate and/or to enable the Vendor to obtain the benefit of the Rebate (by way of assignment or transfer, or otherwise), including without limitation, any form(s) required to be completed and submitted to the Canada Revenue Agency in connection with any claim for the Rebate, or any portion thereof (hereinafter collectively referred to as the **"Rebate Form"**). The Purchaser covenants and agrees to indemnify and save the Vendor harmless from and against any loss, cost, damage and/or liability (including an amount equivalent to the Rebate, plus penalties and interest thereon) which the Vendor may suffer, incur or be charged with, as a result of the Purchaser's failure to qualify for the Rebate, or as a result of the Purchaser having qualified initially for the Rebate but subsequently being dis-entitled thereto (in whole or in part), or as a result of the inability to assign or transfer the benefit of the Rebate to the Vendor (or the ineffectiveness of the documents purporting to assign or transfer the benefit of the Rebate to the Vendor). It is further understood and agreed by the parties hereto that:

- i) if the Purchaser does not qualify for the Rebate, or fails to deliver to the Vendor or the Vendor's solicitor forthwith upon the Vendor's request for same (and in any event on or before Closing) the Rebate Form duly executed by the Purchaser, together with all other requisite documents and assurances that the Vendor may reasonably require from the Purchaser or the Purchaser's solicitor in order to confirm the Purchaser's eligibility for the Rebate and/or to ensure that the Vendor ultimately acquires (or is otherwise assigned) the benefit of the Rebate; or
- ii) if the Vendor believes, for whatever reason, that the Purchaser does not qualify for the Rebate, regardless of any documentation provided by or on behalf of the Purchaser (including any statutory declaration sworn by the Purchaser) to the contrary, and the Vendor's belief or position on this matter is communicated to the Purchaser or the Purchaser's solicitor on or before Closing;

then notwithstanding anything hereinbefore or hereinafter provided to the contrary, the Purchaser shall be obliged to pay to the Vendor on or before Closing (or alternatively the Purchaser shall be charged in the statement of adjustments on final closing with) an amount equivalent to the Rebate, or that portion of the Rebate to which the Purchaser is not entitled, in addition to the outstanding balance of the Purchase Price subject to the adjustments contemplated in Section 1.04(a) above, and any failure to pay same to the Vendor on or before closing shall be deemed and construed to constitute a fundamental breach of contract, thereby entitling the Vendor to refuse to complete this transaction, and to thereafter exercise all of the rights and/or remedies available to the Vendor under this Agreement (and at law or in equity) as a consequence of such default or breach by the Purchaser, including without limitation, the right to refuse to release keys to the dwelling unit and to have all deposit monies theretofore paid by the Purchaser thereupon forfeited to the Vendor as its liquidated damages, and not as a penalty, without prejudice to any other rights and/or remedies available to the Vendor (at law or in equity) as a consequence of said breach or default by the Purchaser. In those circumstances where the Purchaser maintains that he or she is

eligible for the Rebate despite the Vendor's belief to the contrary, the Purchaser shall (after payment of the amount equivalent to the Rebate as aforesaid) be fully entitled to file the Rebate Form directly with (and pursue the procurement of the Rebate directly from) the Canada Revenue Agency. It is further understood and agreed that in the event that the Purchaser intends to rent out the Unit [whether before Closing with the Vendor's written consent, and through a rental management agreement entered into by the Purchaser with Del Condominium Rentals Inc. (hereinafter sometimes referred to as "**Del Rentals**"), or after Closing with a third party tenant procured by the Purchaser], the Purchaser shall not be entitled to the Rebate, but may (for as long as the applicable tax legislation so permits) nevertheless be entitled to pursue, on his or her own after the Closing Date, any applicable new residential rental property rebate(s) directly with the Canada Revenue Agency.

- c) It is further understood and agreed that if the Vendor believes, for whatever reason, that the Purchaser is a non-resident of Canada which would thereby trigger withholding tax in connection with the interest income accruing on the Purchaser's deposits (ie. interest that the Vendor must pay or credit to the Purchaser in the statement of adjustments on final closing pursuant to section 82 of the Act), regardless of any documentation provided by or on behalf of the Purchaser in connection therewith (including any statutory declaration sworn by the Purchaser) to the contrary, and provided the Vendor's belief or position on this matter is communicated to the Purchaser or the Purchaser's solicitor on or before the final closing of this transaction, then notwithstanding anything contained in this Agreement to the contrary, the Vendor shall be entitled to withhold the requisite tax owing in respect of said interest income and shall remit same to the Canada Revenue Agency after the completion of this transaction, in which case the Vendor shall be credited in the statement of adjustments (or the Purchaser will correspondingly be charged in the statement of adjustments) with an amount equivalent to the withholding tax intended to be so remitted.
- d) Notwithstanding any other provision contained in this Agreement to the contrary, the Purchaser expressly acknowledges and agrees that:
- i) the Purchase Price does not include the HST exigible with respect to any of the adjustments outlined in the statement of adjustments at final closing that are payable by the Purchaser pursuant to the provisions of this Agreement (eg. the monthly occupancy fees, the Tarion enrollment fee, the check meter installation fees, etc.), and the Purchaser shall accordingly be responsible for payment of the HST so exigible in connection with any of such adjustments (or for reimbursing the Vendor for the HST exigible in connection therewith), by way of an appropriate charge to the Purchaser (or by a corresponding credit to the Vendor) in the statement of adjustments at final closing; and
 - ii) if, at any time after the final closing of this transaction, the Vendor believes that the Purchaser did not qualify for the Rebate, despite the Purchaser's affidavit or declaration confirming the Purchaser's eligibility for (or entitlement to) the Rebate (for example, and without limitation, if the Vendor discovers sometime after closing that the Purchaser had executed a rental management agreement which confirms the Purchaser's intention to lease the dwelling unit to a third party tenant), then unless the Purchaser remits an amount equivalent to the Rebate (or that portion of the Rebate to which the Purchaser is not entitled) directly to the Vendor's solicitor (by way of a certified cheque made payable to the Vendor's solicitor in trust) forthwith following written notice from the Vendor or the Vendor's solicitor to do so, the Vendor shall thereafter be entitled to register a vendor's lien against the title to the Property for an amount equivalent to the Rebate, or that portion of the Rebate to which the Purchaser is not entitled (together with the Vendor's solicitor's costs for the preparation, registration and ultimate discharge of said lien), and the Purchaser shall correspondingly be estopped and forever barred from demanding a discharge of said lien until payment of all amounts secured thereunder.
- e) If the Purchaser is a company, and is also an HST registrant who wishes to self-assess [and ultimately pay and remit the HST exigible on the completion of this transaction (less any applicable input tax credits for HST claimable by the Purchaser) directly to the Canada Revenue Agency after the final closing of this transaction], then the Purchaser shall be credited in the statement of adjustments on final closing with the amount of the HST so included in the Purchase Price, and shall correspondingly be charged in the said statement of adjustments with the aggregate of the HST new housing rebates which would otherwise be applicable (depending on the purchase price payable in connection with this transaction) had the Purchaser been an individual acquiring the Unit as his or her primary place of residence, and the Purchaser shall also be obliged to execute and deliver to the Vendor's solicitors, on or before the interim-occupancy closing of this transaction, and again on or before the final closing date, both the Vendor's standard form of indemnity (regarding the Purchaser's payment or remittance of the HST) and statutory declaration (confirming the Purchaser's HST registration status) respectively, pursuant to which:
- i) the Purchaser's authorized signing officer shall personally confirm, amongst other things, the Purchaser's eligibility or entitlement to self-assess for HST purposes, and the Purchaser's corresponding registration number for HST purposes, and that such registration has not been cancelled or revoked, and shall attach thereto a copy of the letter issued by the Canada Revenue Agency setting out the HST registration number issued to the Purchaser;
 - ii) the Purchaser's authorized signing officer shall personally confirm that the Unit has been acquired for the Purchaser's own use and account, and has not been purchased or acquired in trust for (nor is title being held or taken by the Purchaser in trust for) any other party or parties; and
 - iii) the Purchaser shall indemnify and save the Vendor harmless from and against all costs, claims, damages and/or liabilities which the Vendor may suffer, incur or be charged with as a result of the Purchaser's failure to maintain its registration status for HST purposes, or as a result of any inaccuracy or misrepresentation made in the affidavit sworn by the Purchaser's authorized signing officer in connection with the Purchaser's eligibility or entitlement to self-assess for HST purposes, and/or as a result of the HST exigible on the completion of this transaction not being paid or remitted to the Canada Revenue Agency by or on behalf of the Purchaser in accordance with the provisions of the *Excise Tax Act (Canada) S.C. 1990 as amended*, or any other applicable tax legislation.

IRREVOCABILITY OF OFFER

1.05 This offer by the Purchaser, constituted by his or her execution of this Agreement, shall (pending the acceptance of this offer by the Vendor) be irrevocable by the Purchaser until the 30th day (excluding Saturdays, Sundays and statutory holidays) following the date of the Purchaser's execution of this Agreement as set out on page 1 thereof, after which time, this offer may be withdrawn, and if so, same shall be null and void and the deposit shall be returned to the Purchaser without interest or deduction.

ACCEPTANCE OF OFFER

1.06 Acceptance by the Vendor of this offer shall be deemed to have been sufficiently made if this Agreement is executed by the Vendor on or before the irrevocable date specified in the preceding section or paragraph, without requiring any notice of such acceptance to be delivered to the Purchaser prior to such time. Without limiting the generality of the foregoing, acceptance of this offer (or any counter-offer with respect thereto) may be made by way of telefax transmission (or similar system reproducing the original) provided all of the necessary signatures and initials of both parties hereto are duly reflected on (or represented by) the telefaxed copy of the agreement of purchase and sale so transmitted, and such acceptance shall be deemed to have been effected or made when the accepted offer (or counter-offer, as the case may be) is telefaxed to the intended party, provided that a confirmation of such telefaxed transmission is received by the transmitting party at the time of such transmission, and the original executed document is thereafter forthwith couriered or personally delivered (or scanned and e-mailed) to the recipient of the telefaxed copy.

REQUIREMENT FOR PURCHASER'S ACKNOWLEDGEMENT OF RECEIPT OF THE DISCLOSURE STATEMENT AND A COPY OF THE EXECUTED PURCHASE AGREEMENT

1.07 Notwithstanding anything contained in this Agreement (or in any schedules annexed hereto) to the contrary, it is expressly understood and agreed that the Purchaser shall be obliged to personally attend at the Vendor's sales office or head office in order to:

- a) receive a copy of this fully executed Agreement (duly signed by both parties hereto); and
- b) execute and deliver to the Vendor's sales agent or representative an acknowledgment of receipt of both the condominium disclosure statement and a copy of this fully executed Agreement, in order to evidence the commencement of the Purchaser's statutory rescission period;

within 5 days (excluding Saturdays, Sundays and statutory holidays) from the date that the Purchaser has been notified in writing by the Vendor to attend at the Vendor's sales office or head office in order to receive a copy of this fully executed Agreement and to correspondingly execute and deliver the aforementioned acknowledgement of receipt, and the Purchaser's failure to attend at the Vendor's sales office or head office (as directed) and to concomitantly execute the aforementioned acknowledgement of receipt within said time period shall be deemed and construed, for all purposes, as a fundamental breach of contract so committed by the Purchaser, whereupon the Vendor shall have the unilateral right to terminate this Agreement at any time thereafter as a consequence of such default (but only before the Vendor or its sales representative has received the aforementioned written acknowledgment of receipt from the Purchaser), upon delivering written notice to the Purchaser confirming such termination, together with a refund of the Purchaser's initial deposit (or the return of the Purchaser's initial deposit cheque uncashed), without interest or deduction, in which event this purchase and sale transaction shall thereupon be null and void, and of no further force or effect, and the Vendor shall thereafter be fully and freely entitled to re-sell the Property (or any portion thereof) to any other prospective purchaser, without any interference from (and without any claim being made against the Vendor or the Vendor's agent by) the Purchaser in connection therewith.

ARTICLE II - PURCHASER'S OBLIGATIONS, RIGHTS AND OTHER MATTERS

PROHIBITION ON PURCHASER SELLING, LEASING OR ASSIGNING

2.01 The Purchaser covenants not to list for sale or lease, advertise for sale or lease, sell or lease, nor in any way assign his or her interest under this Agreement, or the Purchaser's rights and interests hereunder or in the Property, nor directly or indirectly permit any third party to list or advertise the Property for sale or lease, at any time until after the Closing Date, without the prior written consent of the Vendor, which consent may be arbitrarily withheld. The Purchaser acknowledges and agrees that once a breach of the preceding covenant occurs, such breach is or shall be incapable of rectification, and accordingly the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement and the Occupancy Agreement, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default, shall apply.

PROVISIONS CONFIRMING THE PURCHASER'S FINANCIAL RESOURCES

2.02 a) The Purchaser hereby warrants and represents that it has (or will have, on or before the Closing Date) the financial resources to complete the purchase and sale transaction contemplated herein on an all-cash basis to the Vendor, either wholly from the Purchaser's own resources or from third party financing that will ultimately be secured by one or more mortgages given by the Purchaser and registered against the Property on or shortly after the Closing Date. All deposit monies due or payable by the Purchaser prior to the Firm Occupancy Date shall be made or tendered only by way of a bank draft or cheque drawn on (or issued by) a Canadian chartered bank or trust company, on the express understanding that if a cheque or bank draft is delivered to the Vendor by a third party on behalf of the Purchaser (i.e. drawn on the bank account of such third party, rather than on the bank account of the Purchaser), then such bank draft or cheque shall be deemed to be a payment made by such third party as agent for and on behalf of the Purchaser, in which case it is agreed that the certificate confirming that such deposit monies are being held in a designated trust account by the Vendor's solicitors pending the completion or termination of this transaction or the provision of prescribed security in respect of same (being Form 4, prescribed by Section 39 of O.Reg. 49/01 to the Act) shall be issued and delivered directly to the Purchaser only, and not to such third party. In order to evidence and confirm the Purchaser's financial ability to complete this transaction on an all-cash basis to the Vendor on the Closing Date as aforesaid, the Purchaser hereby agrees to submit to the Vendor each of the following documents and items, within 30 days after the date of the Purchaser's signed receipt of this fully executed Agreement, and additionally thereafter within 15 days after the Vendor's written request for same, which request may be made from time to time, on one or more occasions, namely:

- i) an irrevocable direction to the Vendor indicating and confirming how the Purchaser wishes to take title to the Property, with such direction nevertheless being subject to the overriding approval of the Vendor and the First Mortgagee;
 - ii) evidence of the source of the Purchaser's down payment satisfactory to the Vendor and the First Mortgagee, accompanied by written confirmation of the Purchaser's annual income, and any other financial and personal information, documents, instruments or verifications which may be required or desired by the Vendor, the First Mortgagee and any mortgage insurer (if applicable), for the purpose of either confirming that the Purchaser has sufficient resources on its own (and therefore does not require any mortgage financing) to complete this transaction on an all-cash basis to the Vendor on Closing, or for the purpose of facilitating the mortgage approval of the Purchaser by the First Mortgagee in connection with any financing that may be required by the Purchaser to enable the Purchaser to complete this transaction on an all-cash basis to the Vendor on the Closing Date as hereinbefore provided, or for the purpose of determining and establishing the financial ability of the Purchaser to pay the cash balance of the Purchase Price due on the Firm Occupancy Date and/or the Closing Date; and
 - iii) in those circumstances where the Purchaser requires or desires third party financing to assist the Purchaser in completing this transaction on an all-cash basis to the Vendor, a copy of a binding and unconditional mortgage commitment, financial term sheet or loan agreement (together with any and all amendments made thereto from time to time) issued by the First Mortgagee, or by a third party financial institution or other lender which is satisfactory to the Vendor in its sole and unchallenged discretion, and which evidences and confirms the Purchaser's approval for a mortgage loan in such amount or amounts as may be necessary to enable the Purchaser to complete this transaction on an all-cash basis to the Vendor on the Closing Date, on the express understanding that even if the Purchaser ultimately intends to obtain such financing from a lender other than the First Mortgagee, the Vendor shall nevertheless be entitled to compel the Purchaser to obtain (and the Purchaser shall correspondingly be obliged to procure) mortgage approval for a first mortgage loan directly from the First Mortgagee, in such amounts as will enable the Purchaser to complete this transaction on an all-cash basis to the Vendor on the Closing Date, **and to deliver to the Vendor written confirmation of such approval by the First Mortgagee within 30 days after the date of the Purchaser's signed receipt of this fully executed Agreement.**
- b) The Purchaser is hereby notified that a consumer report containing credit and/or personal information may be referred to at any time in connection with this transaction, and the Purchaser hereby consents to such report being obtained by the Vendor, the Agent and/or the First Mortgagee.**

PURCHASER'S FAILURE TO PROVIDE FINANCIAL INFORMATION OR TO PROCURE NEEDED FINANCING

2.03 Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed that in the event that:

- a) **the Purchaser fails to submit the information, evidence and/or documents contemplated in Section 2.02(a)(i), (ii) and (iii) above within the time period(s) hereinbefore stipulated, and as often as the Vendor, the Vendor's solicitors or the First Mortgagee shall require, or if the information, evidence and/or documentation submitted pursuant to the foregoing provisions hereof [or provided to the Vendor, the Vendor's solicitors or the First Mortgagee pursuant to any other provision(s) of this Agreement, or any amendment or addendum with respect to same] is, in whole or in part, false or misleading;**
- b) **the Purchaser fails to disclose any relevant facts pertaining to the Purchaser's mortgage approval and/or the Purchaser's financial circumstances or abilities;**
- c) **the Purchaser requires a first mortgage loan in order to complete this transaction on an all-cash basis to the Vendor on the Closing Date, but has not obtained the requisite mortgage approval from the First Mortgagee or from any other financial institution or lender satisfactory to the Vendor in its sole, unfettered and unchallenged discretion, and has not provided the Vendor with a copy of the binding and unconditional mortgage loan commitment within 30 days after the date of the Purchaser's signed receipt of this fully executed Agreement (as contemplated in Section 2.02 (a)(iii) hereof) for any reason whatsoever; or**

- d) **the Purchaser was initially approved for the requisite mortgage loan by the First Mortgagee or such third party lender satisfactory to the Vendor, and subsequently such approval has been withdrawn or the loan amount has been reduced by the First Mortgagee or such third party lender at any time prior to Closing;**

then in recognition of the fact that the Vendor has held the Property off the marketplace because of this Agreement and the Purchaser's unqualified and unconditional commitment to complete this transaction on an all-cash basis to the Vendor on the Closing Date, the Purchaser shall be deemed to be in default in any of the foregoing circumstances noted in Section 2.03 (a) to (d) above, in which case the Vendor shall then have the unilateral right to either:

- i) **unilaterally declare this Agreement terminated**, by and upon giving written notice thereof to the Purchaser or the Purchaser's solicitor at any time prior to the Closing Date, whereupon:
- A. the Purchaser shall forthwith vacate the Property (or cause same to be forthwith vacated) if same has theretofore been occupied, and shall leave the Property in a clean condition, without any physical or cosmetic damages thereto, and clear of all garbage, debris and any furnishings and/or belongings of the Purchaser; and
 - B. all terms and provisions of this Agreement shall thereupon be null and void, and of no further force or effect, and all deposit monies theretofore paid [together with any monies paid for any extras, upgrades or changes requested to be made to any portion of the Property (hereinafter sometimes collectively referred to as the "Extras") which have theretofore been ordered, implemented and/or paid for by the Vendor] shall be immediately forfeited to (and retained by) the Vendor as its liquidated damages and not as a penalty (in addition to, and without prejudice to, any other rights or remedies available to the Vendor, either at law or in equity, as a result of the Purchaser's default, or the Purchaser's failure or inability to complete this transaction on an all-cash basis to the Vendor on Closing as hereinbefore contemplated), and in such circumstances the Vendor and the Agent shall not be liable for any costs or damages incurred by the Purchaser as a result of this Agreement or the termination thereof pursuant to the foregoing provisions hereof; **OR**
- ii) **take back a first mortgage from the Purchaser on the Closing Date** (which the Purchaser shall correspondingly be obliged to give to the Vendor) for the amount of any shortfall in the unpaid balance of the Purchase Price, drawn on the Vendor's standard form of mortgage (which is available for review at the Vendor's solicitor's office during normal business hours), having a term ranging between a minimum of 6 months to a maximum of 3 years in duration (to be determined by the Vendor at any time prior to the Closing Date in its sole and unfettered discretion, which shall not be open to question or challenge for any reason whatsoever), bearing interest at a fixed rate applicable for the aforementioned term of the mortgage ultimately selected or determined by the Vendor as aforesaid, equivalent to the annual rate of interest (calculated semi-annually, not in advance) charged by the Royal Bank of Canada at its head office in Toronto on first mortgage loans of a similar type and term, and on similar residential condominium properties, and quoted or established by said bank as at the later of the date of registration of the Condominium, and the sixtieth (60th) day prior to the Closing Date (hereinafter referred to as the "**First Mortgage Rate**"). with such mortgage to be repayable in blended monthly installments of principal and interest (plus 1/12th of the estimated annual realty taxes attributable to the Property, if so desired or required by the Vendor) based on a 25 year amortization period. Such mortgage shall contain provisions permitting the Vendor, in its capacity as the mortgagee, to exercise the right of the mortgagor to vote or to consent in all matters relating to the affairs of the Condominium, and shall provide that upon the sale, transfer or other disposition of the Property, the entire outstanding indebtedness secured thereunder shall, at the option of the mortgagee, become immediately due and payable. Such mortgage may also require that all payments thereunder be made by way of a series of post-dated cheques, or pursuant to a pre-authorized cheque plan, and shall contain such other provisions not contrary to the provisions of this Agreement as may be contained in the Vendor's standard form of mortgage document, which will be available for review at the offices of the Vendor's solicitors during normal business hours, incorporating standard charge terms filed by Dye & Durham Co. Limited as no. 200033 (or such other standard charge terms as the Vendor may desire to utilize or incorporate therein, from time to time). Should the Vendor elect to take back a first mortgage on Closing as aforesaid, then the Purchaser shall execute and deliver to the Vendor's solicitors before Closing all documents and assurances required to comply with the provisions of the *Family Law Act R.S.O. 1990, as amended* (so as to ensure that the mortgage security obtained can be lawfully enforced against the Property, if same comprises a matrimonial home), as well as any documents or instruments required to ensure that the full proceeds of any mortgage loan obtained by or on behalf of the Purchaser from any third party lender(s) to finance the purchase of the Property from the Vendor (in whole or in part) are paid directly to the Vendor on the Closing Date, without any abatement or set-off whatsoever.

PURCHASER'S OBLIGATION TO RETAIN A SOLICITOR

- 2.04 **The Purchaser shall be obliged to retain a solicitor** (who is both an authorized user of the Teraview Electronic Registration System, and in good standing with the Law Society of Upper Canada, and who has formally entered into an electronic land registration agreement with Her Majesty the Queen in Right of Ontario, as represented by the Director of Land Registration) to represent the Purchaser in connection with the completion of this purchase and sale transaction, and to correspondingly assist and advise the Purchaser on both the interim occupancy closing and the final closing of this transaction. **The Purchaser shall notify the Vendor or the Vendor's solicitor, in writing, of the name, address, phone number and telefax number of the Purchaser's retained solicitor, at least sixty (60) days prior to the Firm Occupancy Date**, unless such information regarding the Purchaser's solicitor is already indicated on page one of the Agreement to which this schedule is annexed. Should the Purchaser fail to provide such information to the Vendor or the Vendor's solicitor within said time period, then the Purchaser shall be obliged to pay to the Vendor's solicitors (or correspondingly reimburse the Vendor on the interim-occupancy closing date or final closing date, as the case may be, for) **all additional legal fees and ancillary disbursements (including without limitation, all additional administration, photocopying and delivery costs or charges) which may be incurred by the Vendor or charged by the Vendor's solicitors in order to prepare and deliver an interim or final closing package to the Purchaser initially (and/or to thereafter subsequently prepare and deliver another interim or final closing package to the Purchaser's solicitor)**, with the Vendor's solicitors' legal fees for implementing same being **\$500 plus HST** for each additional interim or final closing package, and with such fees being subject to increase, from time to time, without any requirement or obligation to notify the Purchaser of same prior to closing). If the Purchaser notifies the Vendor or the Vendor's solicitors of a change in the Purchaser's solicitor (ie. the Purchaser is retaining a different law firm) after the interim closing or final closing package (as the case may be) has already been prepared for the original Purchaser's solicitor, then the Purchaser shall likewise be obliged to pay an additional fee of **\$500 plus HST** to the Vendor's solicitor in order to reimburse the Vendor for its legal fees incurred in having to get a second interim closing or final closing package prepared for the subsequent Purchaser's solicitor. **The Purchaser's failure to remit, on the interim-occupancy closing date, or the final closing date (as the case may be) a separate certified cheque made payable to the Vendor's solicitors for such fees, shall constitute a default that automatically entitles the Vendor and the Vendor's solicitors to refuse to complete this transaction and to correspondingly refrain from providing occupancy of the Unit to the Purchaser, and/or to refrain from electronically releasing the deed/transfer of title to the Property to the Purchaser's solicitor.**

MANNER OF TAKING TITLE AND REGISTRATION COSTS

- 2.05 a) **The Purchaser shall notify the Vendor's solicitors** as to the manner in which title to the Property is to be taken and the date(s) of birth and marital status of all persons taking title to the Property, and the address for service to be inserted in the transfer and in any mortgage documents herein provided for or contemplated, and in the event that the Purchaser fails to so notify the Vendor's solicitors **within fifteen (15) days after the Vendor's or the Vendor's solicitors' written request for same, or in any event at least sixty (60) days before the Firm Occupancy Date**, then the Vendor or the Vendor's solicitors shall be entitled to engross the Occupancy Agreement, as well as the deed or transfer of title to the Property, in the name of the Purchaser, as noted on page 1 of this Agreement (or in the event that a mortgage is being given by the Purchaser to the First Mortgagee to enable the Purchaser to complete this transaction on an all-cash basis to the Vendor on Closing, then in such other manner as the First Mortgagee may require), and the Purchaser agrees to accept the Occupancy Agreement and the aforementioned conveyance in such manner, and acknowledges that he or she shall be bound thereby and shall be estopped from requiring any further changes to the manner in which the Occupancy Agreement and/or the transfer/deed are so engrossed.
- b) Each party shall pay all costs of registration and taxes with respect to their respective documents.

PURCHASER'S MANDATORY INSURANCE

- 2.06 a) The Purchaser is hereby advised that the Vendor's builder's risk and/or comprehensive liability insurance (effective prior to the registration of the Condominium), and the Condominium's master insurance policy (effective from and after the registration of the Condominium, unless subsequently altered or changed by the post-turnover board of directors) will not cover any floor coverings, nor any kitchen and bathroom countertops and appliances

whatsoever (whether originally installed by or on behalf of the Vendor, or otherwise), and will not cover any betterments or improvements made by or on behalf of the Purchaser to the Unit, nor any furnishings or personal belongings of the Purchaser or other residents of the Unit, and accordingly **the Purchaser shall be obliged to obtain and maintain, at the Purchaser's sole cost and expense, throughout the entire period of the Purchaser's occupation and/or ownership of the Unit, the following insurance coverage** [and shall provide proof of such insurance, together with evidence that the premium(s) for such insurance coverage has been fully paid, to the Vendor's solicitor, forthwith upon the latter's request for same made at any time (and from time to time) prior to the final closing of this transaction (and in any event such proof shall be given to the Vendor's solicitor on or before the interim-occupancy closing of this transaction)], namely:

- i) **All-risks insurance** that provides adequate coverage, on a replacement cost basis, in respect of all floor coverings, and all kitchen and bathroom countertops and appliances, and in respect of all additions, upgrades, betterments and/or improvements made to the Purchaser's dwelling unit (to the extent that same are not included as part of the standard unit for the class of unit to which the Purchaser's dwelling unit belongs, and correspondingly not covered by the master insurance policy obtained and maintained by the condominium corporation), together with property damage insurance for all furnishings, equipment, personal property and chattels of the Purchaser contained within his or her dwelling unit (or elsewhere within the Condominium property), including his or her automobile(s) and/or bicycle(s), as well as insurance for the loss of use and occupancy of the Purchaser's unit in the event of damage. Such policy or policies of insurance shall contain waivers of subrogation against the condominium corporation and its directors, officers, managers, agents, employees and designated representatives from time to time, and against all other unit owners (and any residents, tenants, invitees or licensees of such other units), except for any damage arising from (or in connection with) any vehicle impact, arson, fraud, vandalism or malicious mischief caused or contributed by any of the aforementioned parties or individuals;
 - ii) **Public liability insurance** (providing coverage of not less than \$2 million dollars per occurrence), covering the liability of any owner (including any resident, tenant, invitee or licensee of such owner's unit), to the extent that any damage occasioned to any other unit(s) or to the common elements, or to any personal property situate within any other unit(s) or the common elements, is not covered by any public liability and/or property damage insurance obtained and maintained by the condominium corporation; and
 - iii) **Insurance covering any deductible amount** under the condominium corporation's master insurance policy, that is payable by a unit owner, or for which a unit owner may be responsible for reimbursing the condominium corporation pursuant to the provisions of the declaration or by-laws of the condominium corporation.
- b) The Purchaser also acknowledges being advised by the Vendor that **the following insurance coverage is recommended to be obtained** by each unit owner, at each unit owner's sole cost and expense, although same is not mandatory, namely:
- i) Insurance covering additional living expenses incurred by an owner, if forced to leave his or her dwelling unit by one of the hazards protected against under the condominium corporation's insurance policy or under the owner's personal insurance policy;
 - ii) Insurance covering any special assessments levied against an owner's unit by the condominium corporation; and
 - iii) Contingent insurance coverage, in the event that the condominium corporation's insurance is inadequate to fully cover any particular damage or injury involving or otherwise affecting any owner and/or his or her unit.

CHANGES TO CLOSING PACKAGE(S)

2.07 In the event that the Purchaser desires to:

- a) increase the amount to be paid to the Vendor's solicitors on the Firm Occupancy Date or the Delayed Occupancy Date, as the case may be [as set out in paragraph 1(a)(iv) on page 1 of this Agreement] at any time after the expiry of the initial 10 day statutory rescission period;
- b) vary the name(s) or manner in which the Purchaser has previously requested to take title to the Property;
- c) add or change any parking and/or locker unit(s) being acquired from the Vendor;
- d) change his or her solicitor; and/or
- e) change any other information or any documentation reflected in (or comprising part of) the interim closing package or final closing package that is prepared by the Vendor's solicitor;

but fails to inform the Vendor's solicitor regarding any of the foregoing changes prior to the time that the interim closing package or final closing package (as the case may be) has been completed (even if the package has not yet been forwarded to, or received by, the Purchaser or the Purchaser's solicitor), then the Purchaser shall be obliged to reimburse the Vendor, on either the Firm Occupancy Date or on the final closing date, for the Vendor's processing costs [inclusive of any legal fees and ancillary disbursements which may be incurred by the Vendor and/or charged by the Vendor's solicitors in order to revise the interim closing package or final closing package (or any portion thereof) and/or to reproduce and resend the interim closing package or final closing package (or any portion thereof) as the case may be, to the Purchaser or the Purchaser's solicitor], **but without there being any obligation whatsoever on the part of the Vendor (or the Vendor's solicitors) to approve of, or to implement, any such changes so requested by the Purchaser, and with such processing fees of the Vendor (inclusive of the Vendor's legal fees and ancillary disbursements charged in connection therewith) to be \$750.00 plus HST for each interim or final closing package so revised, reproduced or re-sent.**

TERMS OF INTERIM OCCUPANCY

- 2.08 a) **If the Property is substantially completed sufficient to permit lawful occupancy thereof by the Firm Occupancy Date** or the Delayed Occupancy Date (as the case may be), then provided that the Purchaser has satisfied the Vendor on or before said date as to the Purchaser's ability to complete this transaction on an all-cash basis to the Vendor on the Closing Date as hereinbefore provided or contemplated [and the Purchaser has correspondingly complied with the obligations set out in Section 2.02 (a) hereof, or such obligations have been expressly waived in writing by the Vendor], or alternatively, provided that the Vendor has agreed to take back a first mortgage on the Closing Date as hereinbefore provided or contemplated, **then in either of such events the Purchaser shall pay to the Vendor as a further deposit the sum set forth in paragraph 1(a)(iv) on page 1 of this Agreement, and shall take occupancy of the Property thereon as a monthly tenant**, at a monthly rental or occupancy fee paid monthly in advance, determined in accordance with the provisions of Section 2.08(c) hereof, and said monthly occupancy fees or rental payments shall not be credited as payments towards (nor on account of) the Purchase Price. In such case, the Purchaser covenants and agrees that save and except as otherwise provided or contemplated in Section 2.09 (a)(i) hereof, only the Purchaser and/or members of the Purchaser's immediate family exclusively **shall personally occupy the Property, and shall do so within fourteen (14) days from the Firm Occupancy Date** or the Delayed Occupancy Date (as the case may be) and shall continue to personally occupy the Property until the entire Purchase Price has been fully paid to the Vendor or the Vendor's solicitors, unless such requirement has been expressly waived in writing by the Vendor.
- b) **In the event that the Vendor is unable to register the Creating Documents within 14 months after the Firm Occupancy Date**, then the Purchaser shall have the unilateral right and option of terminating this Agreement by notice in writing given to the Vendor or its solicitors, and which notice shall terminate the Occupancy Agreement effective the last day in the month following the month in which said notice is given, provided however that no such notice or right to terminate can be given or exercised by the Purchaser after the date that the Condominium has been registered under the Act. If the Purchaser chooses to exercise such right of termination in the foregoing circumstances, then upon the Purchaser vacating the Property (and leaving same in a clean condition, without any physical or cosmetic damages thereto, and clear of all garbage, debris and any furnishings and/or belongings of the Purchaser), the Purchaser shall be entitled to the return of his or her deposit monies (inclusive of all monies paid for extras and/or upgrades), together with interest accrued thereon at the rate prescribed by the Act.

c) **The monthly rental or occupancy fee to be charged by the Vendor for the Purchaser's occupancy of the Property**, from and after the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), to the Closing Date, shall be the maximum amount allowed under Section 80(4) of the Act [equivalent to the aggregate of the following three components, namely: interest at the rate prescribed by the Act, calculated on a monthly basis on the unpaid balance of the Purchase Price (if any) payable and owing to the Vendor after the interim occupancy closing of this transaction; an amount reasonably estimated by the Vendor on a monthly basis for municipal realty taxes attributable to the Property; and the projected monthly common expense contributions in respect of the Property]. Section 19(1) of O.Reg. 48/01 confirms that for the purpose of computing the interest component of the aforementioned occupancy fee, the prescribed rate of interest under the Act shall be the rate of interest that the Bank of Canada has most recently reported as the chartered bank administered interest rate for a conventional one year mortgage, established or determined as of the first of the month in which the Purchaser assumes (or is required to assume) interim occupancy of the Property. However, for ease of administration purposes, it is understood and agreed that with respect to calculating the interest component of the occupancy fee payable by the Purchaser, the Vendor shall be entitled to utilize the Bank of Canada's reported chartered bank administered interest rate for a conventional one year mortgage, established as of the first of the month immediately preceding the month in which the first interim occupancy closing occurs in this Condominium, and which interest rate figure shall be utilized for calculating the interest component of the occupancy fee for all unit purchasers completing an interim occupancy closing with the Vendor, on the express understanding and agreement that all occupancy fees so paid by the Purchaser shall be re-adjusted between the parties hereto on the Closing Date, if necessary, in order to take into account any variance or discrepancy between the prescribed rate of interest and the rate of interest utilized by the Vendor as aforesaid. It is also expressly agreed that the "deemed re-investment" principle, and its corresponding requirement of an "interest factor", shall not apply to the calculation of the monthly interest component of the occupancy fee. It is further acknowledged and agreed that the common expense component of the occupancy fee shall likewise be re-adjusted between the parties hereto on the Closing Date, if necessary, in order to take into account any variance between the projected monthly common expense contributions in respect of the Property, and the final monthly common expense contributions attributable to the Property as set out in (or as confirmed by) the final first year budget statement in respect of the Condominium. Finally, in accordance with the provisions of subsections 80(8) and (9) of the Act, the realty tax component of the occupancy fee shall be re-adjusted between the parties hereto after the Closing Date, once the final realty taxes (incorporating or reflecting both a land and building value assessment) assessed against the Property (together with all supplementary taxes in connection therewith, if any, which may be assessed and applicable for the balance of the calendar year in which the Closing Date has occurred) have been finally determined or established by the tax department of the local municipality in which the Lands are situate, in order to take into account any variance between the estimated realty taxes attributable to the Property, and the final assessed realty taxes in respect of same. Such re-adjustment with respect to the realty tax component of the occupancy fee shall occur within 60 days following the Vendor's receipt of the final realty tax bill issued in respect of the Property (together with all applicable supplementary tax bills issued in respect of same, for the balance of the calendar year in which the Closing Date has occurred). To facilitate such last-mentioned re-adjustment, the Purchaser shall be obliged to forthwith deliver to the Vendor a copy of the final realty tax bill issued in respect of the Property (including all supplementary tax bills issued in respect of same for the balance of the calendar year in which the Closing Date has occurred) so received by the Purchaser from the tax department of the local municipality, forthwith following the Purchaser's receipt of same. In the event that realty taxes are only assessed against the dwelling unit comprising part of the Property, then the dwelling unit being purchased hereunder shall be deemed and construed to be the Property, for the purposes of construing the foregoing provisions hereof pertaining to the re-adjustment of the realty tax component of the occupancy fee. The Purchaser further agrees to effect and complete any re-adjustment with the Vendor (whether with respect to any of the components of the occupancy fee, or otherwise) within 30 days of being requested to do so by the Vendor.

2.09 a) **The Purchaser's occupancy** as a monthly tenant shall be based on the terms and conditions of the Vendor's standard form of occupancy agreement (hereinbefore and hereinafter referred to as the "**Occupancy Agreement**"), a copy of which is available for review at the sales office or at the offices of the Vendor's solicitor during normal business hours. The Purchaser shall execute the Occupancy Agreement prior to possession of the Property being given to the Purchaser, and same shall provide, inter alia that:

- i) Unless and until the Purchaser has executed a schedule to this Agreement entitled "Schedule "L" - Permission to Lease Dwelling Unit", and has correspondingly entered into a rental management agreement with the Vendor's designated leasing agent, namely Del Rentals, in order to have a third party tenant so approved by Del Rentals occupy the Unit for residential purposes, then only the Purchaser and/or members of the Purchaser's immediate family shall use and occupy the Property for residential purposes exclusively, in accordance with the provisions of the proposed Condominium Documents. In the event that the Purchaser is a corporation, any officer or director of the Purchaser and his or her immediate family shall be permitted to use and occupy the Property for residential purposes only, provided that on or before the Firm Occupancy Date, the Purchaser delivers to the Vendor's solicitor a certificate of incumbency executed by an officer of the Purchaser certifying the identity of all officers and directors of the Purchaser, accompanied by a statutory declaration sworn by the said officer or director who intends to personally reside within the Property confirming the names or identity of all other individuals intending to reside therein and that same are members of his or her immediate family.
- ii) The Purchaser shall maintain the Property in a clean and proper condition, and shall make no alterations of any nature or kind whatsoever to the Property (or any portion thereof) without obtaining the prior written approval of the Vendor thereto, and which approval may be arbitrarily withheld, and the Purchaser shall conform with all other obligations set forth in the Occupancy Agreement;
- iii) The Purchaser shall not have the right to assign or sublet the aforementioned tenancy or occupancy of the Property without obtaining the prior written consent of the Vendor thereto (which consent may be arbitrarily withheld), and without having entered into a rental management agreement with the Vendor's designated leasing agent (namely Del Rentals) prior to entering into any assignment or subletting of the aforementioned tenancy in respect of the Property, and in such case, the Purchaser acknowledges that he or she will no longer qualify for the new housing rebate applicable pursuant to section 254 of the *Excise Tax Act, S.C. 1990, as amended*, and will accordingly be charged in the statement of adjustments with an amount equivalent to the aforementioned rebate [on the express understanding that the Purchaser may nevertheless still be entitled to pursue, on his or her own behalf after the Closing Date, the new residential rental property rebate directly with the Canada Revenue Agency, pursuant to section 256.2 of the *Excise Tax Act*, which section was deemed to come into force on February 28th, 2000];
- iv) The Purchaser shall, from and after the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), pay all telephone, cable television and other charges and expenses billed directly to the owner of the Property by the supplier of such services, unless same are included as a proposed common expense;
- v) The Purchaser shall be responsible for all damages to the Property and to the common elements, caused by the Purchaser (or by any member of the Purchaser's family residing within the Unit), or by any agents, servants, workmen, invitees and/or licensees of the Purchaser (or of any member of the Purchaser's family residing within the Unit). The Purchaser shall reimburse the Vendor for the cost of repairs in respect of any such damage, and shall indemnify and save the Vendor harmless from and against all costs, damages and liabilities suffered or incurred by the Vendor in having to restore the Property to the condition existing before the possession of the Property was granted to the Purchaser; and
- vi) In the event of any physical damage to the Condominium or the Property (or to any portion thereof) caused by fire, explosion, flood, lightning, tempest, act of God, act of war or act of terrorism, or by any other insurable peril occurring prior to the commencement of the Purchaser's occupancy of the Unit, or during the period of the Purchaser's occupancy thereof which renders the Unit uninhabitable, then it is understood and agreed that:
 - A. if any such damage can be substantially repaired within one (1) year from the date of the damage occurring, as determined jointly by the Vendor and the project architect acting reasonably (and which determination shall be final and binding on the parties hereto, and not subject to challenge or appeal under any circumstances whatsoever), then such damage shall be deemed and construed to constitute an "Unavoidable Delay", as such term is defined in section 12 of the Tarion Addendum, in which case the provisions pertaining to Unavoidable Delay and the corresponding extension of the Firm Occupancy Date or Delayed Occupancy Date (as the case may be) outlined in the Tarion Addendum shall apply and prevail in such circumstances, and if the Purchaser has already taken possession of the Unit at the time of such damage, then the Purchaser's existing occupancy of the Property shall thereupon be temporarily suspended for the duration of the Unavoidable Delay Period (as such term is defined in section 12 of the Tarion Addendum), and the monthly rental or occupancy fees so payable by the Purchaser to the Vendor shall correspondingly be abated and suspended during and throughout the Unavoidable Delay Period; and
 - B. if the Vendor's construction lender elects to appropriate all (or substantially all) of the available insurance proceeds (if any) so triggered by such damage to reduce, *pro tanto*, the Vendor's outstanding indebtedness to it, and/or is unwilling to lend or advance any monies required to rebuild and/or repair such damage, or if such damage cannot be substantially repaired within one (1) year from the date of the damage occurring, as

determined jointly by the Vendor and the project architect acting reasonably (and which determination shall be final and binding on the parties hereto, and not subject to challenge or appeal under any circumstances whatsoever), then in either case such damage shall be deemed and construed for all purposes to have frustrated the completion of this transaction and this contract, and if the Purchaser has already taken possession of the Unit at the time of such damage, then the Purchaser's existing occupancy of the Property shall thereupon be forthwith terminated, and all monies paid by the Purchaser on account of the Purchase Price (inclusive of all monies paid to the Vendor for extras and/or upgrades) shall be fully refunded to the Purchaser, together with all interest accrued thereon at the prescribed rate, and the Vendor shall not be liable for any costs and/or damages incurred by the Purchaser thereby whatsoever, whether arising from (or in connection with) the termination of the Purchaser's existing occupancy of the Property, or the termination of this transaction, by virtue of the frustration of this contract occurring through no fault of the Vendor.

- b) In an effort to ensure that there are no outstanding executions against the Purchaser (or against a person with a name similar to, or identical to, that of the Purchaser) which might impede any third party financing sought or obtained by the Purchaser in order to facilitate the Purchaser's completion of this transaction on an all-cash basis to the Vendor on the Closing Date, it is expressly understood and agreed that on **the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), the Purchaser shall deliver to the Vendor's solicitors a clear and up-to-date execution certificate** in respect of the Purchaser's name from the Land Titles Office in which the Lands are registered, and if a clear execution certificate cannot be obtained from the said Land Titles Office because of any outstanding execution(s) filed against a person or persons with a name similar or identical to that of the Purchaser, then in lieu thereof the Purchaser shall be obliged to deliver to the Vendor's solicitors the execution certificate showing the outstanding execution(s) together with an unequivocal and unqualified statutory declaration duly sworn by the Purchaser's solicitor, confirming that the Purchaser is not one and the same person as the judgement debtor named in the said execution(s) [and shall also provide such other information and documentation as the Vendor's solicitors may reasonably require in order to be satisfied, in the Vendor's solicitor's sole and unchallenged discretion, that the Purchaser is not one and the same person as the particular execution debtor named in the outstanding execution, including without limitation, the delivery to the Vendor's solicitors of an execution abstract or summary providing details of all such outstanding executions, as issued and certified by the Sheriff at the Land Titles Office in which the Lands are registered. If the Purchaser's mortgage approval (for a loan secured by a mortgage to facilitate the Purchaser's completion of this transaction on an all-cash basis to the Vendor) is dependent upon one or more guarantors/covenantors agreeing to guarantee the Purchaser's obligations in respect of any such mortgage, then in addition to the foregoing, the Purchaser shall be obliged to deliver to the Vendor's solicitors, on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), a clear and up-to-date execution certificate in respect of each guarantor's/covenantor's name, and the foregoing provisions of this subparagraph shall apply, *mutatis mutandis*, to any such guarantor(s)/covenantor(s). **In addition, the Purchaser agrees to deliver to the Vendor's solicitors on or before the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be):**
- i) **three (3) copies of the Occupancy Agreement** signed by the Purchaser named on page one (1) of the Agreement to which this schedule is annexed (and with all signatures of the individuals comprising the Purchaser being duly witnessed), **together with a series of six (6) post-dated cheques** (or such greater number as the Vendor may require), each in the amount of the said monthly rental or occupancy fee, for the next six (6) months (or more) immediately following the Stub Period (as hereinafter defined);
 - ii) **a certified cheque** for the occupancy fee with respect to the period between the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), and the last day of the month following the month in which the interim occupancy closing of this transaction has occurred or transpired (hereinafter referred to as the "**Stub Period**");
 - iii) **an irrevocable direction to the Vendor confirming the manner in which the Purchaser wishes to take title** to the Property (which direction shall be subject to the overriding approval of the Vendor and the First Mortgagee), accompanied by the date of birth and social insurance number of each person taking title to the Property, and supported by a copy of their respective birth certificates (issued by the Department of Vital Statistics), if so requested by the Vendor. It is further understood and agreed that if the Purchaser fails to deliver the irrevocable direction at such time, then the Purchaser shall be deemed to have agreed to accept title to the Property in the name(s) that the Purchaser is identified or described in this Agreement (or in any amending agreement or addendum thereto), and thereafter the Purchaser shall not be entitled to request any further changes to the name(s) or manner in which title is to be taken; and
 - iv) **any other documents or instruments (including without limitation, any directions, acknowledgments, affidavits, declarations and/or undertakings)** which the Vendor's solicitor reasonably requires or requests from the Purchaser or the Purchaser's solicitor in order to complete this purchase and sale transaction in accordance with the terms and provisions hereof.
- c) The Purchaser acknowledges and agrees that in the event this Agreement is terminated, other than by way of the final closing of the purchase and sale transaction contemplated hereunder, then the provisions of section 58(1)(4) of the *Residential Tenancies Act S.O. 2006, as amended*, shall apply with respect to the termination of the tenancy between the Vendor and the Purchaser as hereinbefore provided.

METERING OF SERVICES / HEATING & COOLING SYSTEM

- 2.10 The details regarding the metering of water, electricity and/or gas service to this Condominium (and the corresponding responsibility for the payment of same), together with the particulars of the heating and cooling system servicing this Condominium (and each of the dwelling units therein), are more particularly described in Section 2.10 of Schedule "AA" annexed hereto.

NOISE WARNING AND OTHER SPECIAL NOTICES

- 2.11 a) The Purchaser specifically acknowledges and agrees that the Condominium will be developed in accordance with any requirements that may be imposed, from time to time, by any of the Governmental Authorities, and that the proximity of the Condominium to any nearby roadways, highways, subways (and corresponding transit operations) and/or railway tracks and lines (and corresponding railway operations, over which trains and other railway traffic may travel), as well as any nearby industrial, commercial/retail or office buildings, any nearby public park (which may or may not contain playground facilities for children), and/or any nearby hydro sub-station or hydro corridor (which may contain extensive overhead hydro towers, hydro lines and transformers, etc.), and to any other specific sources of excessive noise and/or vibration, as more particularly described in Section 2.11(a) of Schedule "AA" annexed hereto (if applicable), may result in noise and/or vibration transmissions to (or otherwise affecting) the Lands or any portion thereof, and may cause the noise exposure and/or vibration levels affecting the Lands to exceed the noise/vibration criteria established by the Governmental Authorities, and that despite the inclusion of noise control features within the Condominium, noise levels and vibration from any of the aforementioned sources may continue to be of concern, occasionally interfering with some activities of the dwelling occupants in the Condominium. The Purchaser nevertheless agrees to complete this transaction in accordance with the terms hereof, notwithstanding the existence of such potential noise and/or vibration concerns, and the Purchaser further acknowledges and agrees that a noise-warning clause similar to the preceding sentence (subject to amendment or enlargement by any wording or text recommended by the Vendor's noise consultants or by any of the Governmental Authorities) may be registered on title to the Lands on the Closing Date, if, in fact, same is required by any of the Governmental Authorities. Without limiting the generality of the foregoing, the Purchaser specifically acknowledges that the following noise warning clause has been inserted in this Agreement, at the request of the Governmental Authorities, namely: "**Purchasers are advised that despite the inclusion of noise control features in this development and within the condominium dwelling units, noise, sound and/or vibration levels from increasing vehicular traffic on nearby streets and/or nearby bus, subway and/or streetcar transit operations or nearby railway lines (and corresponding railway operations), may continue to be of concern, occasionally interfering with some activities of the dwelling occupants. Each of the dwelling units in this Condominium have been (or will be) supplied with a central air conditioning system, which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality's and the Ministry of Environment's noise criteria. Additional Warning: The Canadian National Railway Company, or its assigns or successors in interest, and/or the Canadian Pacific Railway Company, or its assigns or successors in interest, has (or may have) a right-of-way within 300 metres from the Lands. There may be alterations to or expansions of the rail facilities on such right-of-way in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and/or vibration attenuating measures in the design of the condominium development and individual dwellings. CNR and/or CPR shall not be responsible for any complaints or claims arising from the use of such facilities and/or operations on, over or under the aforesaid right-of-way.**"

- b) In addition to any special notices, warnings and/or provisions which the Vendor wishes to bring to the Purchaser's attention, and which may be set out in Section 2.11(b) of Schedule "AA" annexed hereto (if applicable), the Purchaser is hereby advised that:
- i) the City (through the auspices of its local transit commission or authority) operates (or may operate) a surface bus route system and/or a subway system adjacent to (or in the neighbouring vicinity of) the Lands, and that there may be alterations to (or expansions of) the aforementioned bus route and/or subway line and their appurtenant facilities and operations in the future, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and/or vibration attenuating measures in the design of the Condominium and the individual dwelling units, and that the City shall not be responsible for any complaints or claims arising from the use of its surface bus route and/or subway transit facilities and/or operations adjacent to the Lands;
 - ii) some activities which may be carried out by the City and/or the local public transit commission or authority (hereinafter sometimes referred to as the "Transit Authority") in connection with the ordinary operation of the Transit Authority's transit facilities situate within (or operated within) the neighbouring vicinity of this Condominium, may generate noise, vibrations, odours, omissions, dust, etc., as well as electro-magnetic interference and/or stray currents, which may affect the Lands and be transmitted into the building(s) developed thereon, and may correspondingly create some inconvenience, interference or disturbance to the residents of this Condominium, and that despite the foregoing, neither the Condominium, nor any unit owners or residents within this Condominium, shall be entitled to any compensation from the City and/or the Transit Authority arising from (or in connection with) any such resulting inconvenience, interference or disturbance, nor make, initiate or pursue any claim or cause of action against the City and/or the Transit Authority for damages arising from (or pertaining to) any noise, vibrations, odours, omissions (including smoke or exhaust), electro-magnetic interference and/or stray currents now or hereafter affecting the Lands, this Condominium and/or the owners or residents of this Condominium, and the City and the Transit Authority accept no responsibility or liability for any such effects;
 - iii) noise and vibration levels caused by the Condominium's bank of elevators, garbage chutes, electrical room(s), mechanical equipment, move-in bays and ancillary moving facilities and areas, and by the Condominium's indoor and/or outdoor recreation facilities (if applicable), may occasionally cause noise, vibrations and/or inconvenience to the dwelling occupants;
 - iv) as and when other units (and/or any exclusive use common element areas) in this Condominium are being completed and/or moved into, excessive levels of noise, vibration, dust and/or debris are possible, and same may accordingly temporarily cause noise and inconvenience to the dwelling occupants; and
 - v) at the point in time when the dwelling unit being acquired by the Purchaser hereunder is required to be occupied by the Purchaser in accordance with the foregoing provisions hereof, there still may be outstanding construction and/or finishing work to be undertaken thereafter by the Vendor to portions of the exterior and/or interior of the condominium building, which may require the continued placement and use of an exterior hoist (for hauling or conveying construction materials, workers and/or debris) that is temporarily anchored to the exterior facade of the building, immediately outside of or near the Purchaser's dwelling unit, which in turn may block or obstruct the Purchaser's view to the outside and/or give rise to an increase in noise and/or vibration levels during construction hours (between 7:00 a.m. and 7:00 p.m.) pending the completion of all construction and finishing work in respect of the Condominium, which obstruction of view, noise and/or vibration may be of concern to the Purchaser and which may interfere with some activities of the dwelling occupants;

and it is expressly understood and agreed that despite the foregoing, the Purchaser shall not make or pursue any claim against the Vendor (or any other party) for compensation, an abatement in the purchase price (or the occupancy fees so payable), for damages or otherwise, nor initiate or pursue any claim, action or proceeding against the Vendor (or any other party) by reason of the foregoing noise and/or vibration sources, concerns, obstruction of view and/or any inconvenience to the Purchaser caused thereby, including any proceeding to enjoin or restrain any of the foregoing activities which may cause any such noise, vibration, obstruction of view and/or inconvenience.

- c) If the Unit has the benefit of an outdoor terrace or rooftop terrace as an appurtenant exclusive use common element area (pursuant to Schedule "F" of the declaration of the Condominium), then the Purchaser as unit owner shall be responsible for maintaining all of the landscaping materials (including plants, soil materials, fencing, stones, etc.) in accordance with the provisions of the declaration, at the Purchaser's sole cost and expense, on the express understanding that with respect to any such landscaping materials that have been originally installed by the Vendor and are inaccessible by the Purchaser (or difficult to reach), the Purchaser as unit owner shall be obliged to notify the condominium corporation of any needed or desired maintenance work with respect thereto, and the condominium corporation's authorized agents, representatives or retained contractors shall thereafter carry out such maintenance work, at the sole cost and expense of such owner.
- d) The Purchaser acknowledges and agrees that equipment owned or used by or on behalf of the Declarant and/or the Condominium may, from time to time, be temporarily attached to the exterior of the Unit, and/or to any exclusive use common element areas appurtenant thereto, for the purposes of facilitating the Condominium's maintenance and repair of any exterior windows and other exterior building components of the Condominium, and to affix exterior marketing banners or signs [including without limitation, a davit arm and appurtenant cables (utilized to affix a swing stage and window washing scaffolding) and/or other similar equipment, mechanisms and/or apparatus], and the Purchaser hereby expressly consents to such attachment and affixation.
- e) The Purchaser is further advised that the City or any other Governmental Authorities may impose restrictions on traffic turning into and/or out of the Condominium, and the Purchaser agrees to accept any such restrictions, and to abide by same.
- f) The Purchaser also acknowledges and agrees that each dwelling unit within this Condominium shall be occupied and used only for residential purposes, and shall not be used for the business of providing transient residential accommodation on a furnished and/or unfurnished suite basis (with or without ancillary maid, cleaning and/or laundry services) through short term or long term licence/lease arrangements, unless:
 - i) such use is permitted in accordance with the provisions of the applicable zoning by-laws of the City pertaining to the Lands, as amended from time to time; and
 - ii) such use is expressly permitted or authorized in Section 2.11(f) of Schedule "AA" annexed hereto;

provided however that the foregoing shall not prevent or in any way restrict the Vendor, while owning and seeking to sell any of the dwelling units in this Condominium, from utilizing any of the units (or proposed units) and/or any common element areas in this Condominium for the purposes of creating and/or maintaining a sales office and/or a customer-service office, advertising signs, and model suites for display purposes, until such time as all of the dwelling units in this Condominium (or all of the dwelling units in any adjacent or neighbouring condominium being developed by the Vendor, if applicable), or such lesser number as the Vendor may determine in its sole and unfettered discretion, have been sold, conveyed and transferred by the Vendor to each of the respective unit purchasers thereof.

- g) It is further acknowledged that one or more of the Development Agreements [as defined in Section 4.01(c) hereof] may require the Vendor to provide the Purchaser with certain notices, including without limitation, notices regarding such matters as land use, the maintenance of retaining walls, landscaping features and/or fencing, noise abatement features, garbage storage and pick-up, school transportation, and noise/vibration levels from adjacent roadways and/or nearby railway lines or airports. The Purchaser agrees to be bound by the contents of any such notice(s), whether given to the Purchaser at the time that this Agreement has been entered into, or at any time thereafter up to Closing, and the Purchaser further covenants and agrees to execute, forthwith upon the Vendor's request, an express acknowledgement confirming the Purchaser's receipt of such notice(s) in accordance with (and in full compliance of) such provisions of the Development Agreements, if and when required to do so by the Vendor.
- h) The Purchaser is hereby advised that both the public and separate elementary, middle and secondary schools within the neighbouring vicinity of the Condominium are at (or are nearing) full capacity, and accordingly may not have sufficient space and/or permanent facilities in the future to accommodate new pupils anticipated from the dwelling units in this Condominium. There is no guarantee when or if a new school in the neighbouring vicinity of the Condominium will be built, and therefore students residing in the Condominium may have to be accommodated in portables, or bused to existing schools outside the area. In addition to any other specific warnings or notices pertaining to local schools, students and/or bussing issues which, if applicable to

this Condominium, shall be set out in Section 2.11(h) of Schedule "AA" annexed hereto, the Purchaser is also hereby advised that the local or district school board (in the region or jurisdiction within which this Condominium is situate) has requested that the Vendor advise and notify all prospective unit purchasers that:

- i) while the local or district school board makes every effort to accommodate students locally, due to residential growth, sufficient accommodation may not be available within the neighbouring vicinity or area of the Condominium for all students, and accordingly students may be accommodated in facilities outside of said vicinity or area until adequate funding or space becomes available; and
 - ii) if bussing is provided by the local or district school board in accordance with the board's policy, students will not be bussed (nor picked up and/or dropped off) directly from their home or the Condominium to the school, but rather will have to meet the bus at designated locations in or outside of the area or neighbouring vicinity of the Condominium.
- i) Door-to-door mail delivery will not be available to the residents of this Condominium. Instead, mail must be picked-up from super mailboxes or from one or more mail kiosks situate within the confines of the Condominium.
- j) Residents of the Condominium are absolutely prohibited from altering or interfering with the slope of the Lands and/or the grading and drainage patterns established by the Vendor with respect to the Lands and/or the Condominium, and from interfering with any drains installed or established on the Lands, and from altering the width of any driveways situate within the Lands (except in accordance with the approved lot grading plan and the building siting control plan), without the prior written consent of the City, and the Condominium shall maintain any such alterations so approved by the City. Subject to the provisions of the declaration, by-laws and rules of the Condominium in force from time to time, residents shall not place any fence, shrub, bush, hedge or other landscaping treatment on any portion of the common elements (including any portion of the unpaved municipal road allowance adjacent to the Condominium).
- k) The Purchaser acknowledges and agrees that the Vendor (and any of its authorized agents, representatives and/or contractors), as well as one or more authorized representatives of the Condominium, shall be permitted to enter the Unit after Closing, from time to time, in order to enable the Vendor to correct outstanding deficiencies or incomplete work for which the Vendor is responsible, and to enable the Condominium to inspect the condition or state of repair of the Unit and undertake or complete any requisite repairs thereto (which the owner of the Unit has failed to do) in accordance with the Act and the provisions of the declaration, by-laws and/or rules of the Condominium in force from time to time.
- l) The Vendor reserves the right to increase or decrease the final number of dwelling, parking, locker, service and/or other ancillary units intended to be created within the Condominium, as well as the right to alter the design, style, size and/or configuration of the dwelling units ultimately comprised within the Condominium which have not yet been sold by the Vendor to any unit purchaser(s), all in the Vendor's sole and unchallenged discretion, and the Purchaser expressly acknowledges and agrees to the foregoing, provided that the final budget for the first year following registration of the Condominium is prepared in such a manner so that any such variance in the dwelling/parking/locker/service and/or other ancillary unit count will not affect, in any material or substantial way, the percentages of common expenses and common interests allocated and attributable to the dwelling, parking and/or locker units sold by the Vendor to the Purchaser pursuant to this Agreement and any addendum thereto. Without limiting the generality of the foregoing, the Purchaser further acknowledges and agrees that one or more dwelling units situate adjacent to one another may be combined or amalgamated prior to the registration of the Condominium, in which case the common expenses and common interests attributable to such proposed former units will be incorporated into one figure or percentage in respect of the final combined unit, and the overall dwelling unit count of the Condominium will be varied and adjusted accordingly. None of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Vendor to the Purchaser in connection with this transaction.
- m) The Purchaser hereby acknowledges and agrees that the Vendor cannot guarantee (and will not be responsible for) the arrangement of a suitable move-in time for purposes of accommodating the Purchaser's occupancy of the Unit on the Firm Occupancy Date, the Delayed Occupancy Date or the Closing Date, as the case may be, and that the Purchaser shall be solely responsible for directly contacting the Vendor's customer service office or representative in order to make suitable booking arrangements with respect to the Condominium's service elevator, if applicable (with such booking being allotted on a "first come, first served" basis), and under no circumstances shall the Purchaser be entitled to any claim, refund, credit, reduction/abatement or set-off whatsoever against any portion of the Purchase Price, or against any portion of the common expenses or other adjustments with respect thereto (nor with respect to any portion of the monthly occupancy fees so paid or payable, if applicable) as a result of the service elevator not being available to accommodate the Purchaser moving into the Condominium on (or within any period of time after) the Firm Occupancy Date, the Delayed Occupancy Date or the Closing Date, as the case may be.
- n) **All unit purchasers are hereby advised that private driveway windrow clearing and sidewalk snow clearing will not be provided by the City for streets with less than 18.5 metre rights of way and/or with sidewalks adjacent to the curb.**

CONFIRMATION OF PURCHASER'S DATE OF BIRTH AND SOCIAL INSURANCE NUMBER

2.12 The date of birth of each individual constituting the Purchaser is required in order to complete and register the deed/transfer of the Property from the Vendor to the Purchaser. In addition, since the purchase of a proposed condominium unit entitles the Purchaser to receive (or obtain a credit in the statement of adjustments for) interest at the rate prescribed by the Act on all deposit monies paid on account of the purchase price prior to interim occupancy, the social insurance number or S.I.N. of each individual constituting the Purchaser (or alternatively the business registration number of the corporation constituting the Purchaser, where the Purchaser is a corporate entity) is required for the completion of the T-5 Interest Income Tax Information Return or the NR-4 Non-Resident Withholding Tax Information Return (where applicable). Accordingly, the Purchaser hereby agrees to provide the Vendor's sales representative with the Purchaser's date of birth and social insurance number (or business registration number, as the case may be) contemporaneous with the Purchaser's execution of this Agreement, so that such information can be inputted in the Vendor's secure data base, and to forthwith provide the Purchaser's date of birth and social insurance number at any time thereafter, forthwith upon the written request for same made by the Vendor or the Vendor's solicitor.

PURCHASER'S CONSENT TO THE COLLECTION AND LIMITED USE OF PERSONAL INFORMATION

2.13 The Purchaser covenants and agrees to provide to the Vendor all required personal information and documentation pertaining to each of the individuals and/or companies comprising the Purchaser needed to enable the Vendor and/or the Vendor's agent to fully comply with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act S.C. 2000, as amended* (hereinafter referred to as "FINTRAC"), forthwith upon the Vendor's request for same, including without limitation, the name, current home address, date of birth, and the principle business or occupation of each individual or corporation comprising the Purchaser, along with a copy of a validly-issued birth certificate, or an unexpired drivers license, passport, or government-issued record of landing or permanent resident card (together with a copy of government-issued photo I.D. for each individual comprising the Purchaser, or for each officer and director of each company comprising the Purchaser), as well as a copy of the articles of incorporation, a current certificate of status, a current certificate of incumbency, and evidence of the power to bind the corporation to this Agreement, for each company comprising the Purchaser, and correspondingly required to objectively verify the identity of each such individual or corporation. It is further understood and agreed that if any deposit monies are provided to the Vendor or the Vendor's solicitors by (or drawn on the account of) someone other than the Purchaser, then the Purchaser shall also be obliged to forthwith provide the Vendor with all of the foregoing information and documentation pertaining to said other party, as may be required to comply with the provisions of FINTRAC, failing which the Vendor shall be entitled to refuse to accept such deposit monies or deposit cheque, and the Purchaser shall thereupon be considered in breach of its obligations hereunder. For the purposes of facilitating compliance with the provisions of any applicable Federal and/or Provincial privacy legislation (including without limitation, *the Personal Information Protection and Electronic Documents Act S.C. 2000, as amended*), the Purchaser hereby consents to the Vendor's collection and use of the Purchaser's personal information [including without limitation, the Purchaser's name, age, date of birth, marital status, home address, principal business or occupation, work address, e-mail address, telefax/telephone number (for home and work), and business registration number (where the Purchaser is a corporation), residency status, social insurance number (for the limited purpose described in subparagraph (i) below), and any other personal information of the Purchaser contained in any identification document pertaining to the Purchaser and disclosed to or on behalf of the Vendor, as well as the Purchaser's desired suite design(s) and colour/finish selections], in connection with the completion of this transaction and for any post-closing customer care issues and post-closing Tarion warranty services and repairs. The Purchaser also expressly consents and agrees to the disclosure and/or distribution of any or all of the aforementioned personal information

to any or all of the following entities, on the express understanding and agreement that the Vendor shall not sell or otherwise provide or distribute such personal information to anyone other than the following entities, namely to:

- a) any companies or legal entities that are related to or affiliated with the Vendor or Tridel Corporation (or any other companies marketed under the Tridel brand), including without limitation, Del Property Management Inc. (a property management company), Delsuites Inc. (a company specializing in short term accommodation arrangements on a furnished suite basis), Del Condominium Rentals Inc. (a rental management company), Del Realty Incorporated (a real estate broker providing residential real estate listing, selling and marketing services), Provident Energy Management Inc. (a company specializing in cost-effective and efficient energy management services), Del Management Solutions Inc. (a company providing real estate management solutions and related services) and Del Manor Seniors Communities Inc. (a company providing independent and assisted living accommodation and related services to seniors), as well as any other future condominium declarants that are likewise related to or affiliated with the Vendor or Tridel Corporation (or which are marketed under the Tridel brand) and are correspondingly developing one or more other condominium projects or communities that may be of interest to the Purchaser or members of the Purchaser's family, for the limited purposes of marketing, advertising and/or selling various products and/or services to the Purchaser and/or members of the Purchaser's family;
- b) any real estate agent(s) and/or broker(s) who introduced the Purchaser to this Condominium and/or the Vendor and which introduction has culminated in an executed agreement of purchase and sale between the Purchaser and the Vendor in respect of the Unit (and to whom the Vendor has paid, or intends to pay, a real estate commission in connection with the completion of this purchase and sale transaction), and allowing said real estate agent(s) and/or broker(s) to access, through the Vendor's information service provider, a designated computer portal in order to keep track of the various suites and corresponding sale transactions in respect of which commissions are (or may be) due and payable or otherwise owing to them, and where limited information about the Purchaser and the status of this transaction (eg. information regarding the Purchaser's name, current address and phone number, purchase price, amount of deposits paid to date, the Purchaser's mortgage approval status, whether the suite has finally closed, etc.) will be available to them for the purposes of facilitating the Purchaser's completion of this transaction, and keeping track of when and how much commissions are (or may be) due and owing to them;
- c) one or more third party data processing companies which handle or process marketing campaigns and who may send (by e-mail or other means) promotional literature/brochures about new condominiums and/or related services to the Purchaser and/or members of the Purchaser's family;
- d) any financial institution(s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, including without limitation, the Vendor's construction lender(s), the project monitor (eg. Altus Helyar Cost Consulting Ltd. or Altus Group Limited), the Vendor's designated take-out lender(s), Tarion and/or any warranty bond provider and/or excess condominium deposit insurer (eg. Travelers Insurance Company of Canada, or Aviva Insurance Company of Canada, etc.);
- e) any insurance companies providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof) and/or the common elements of the Condominium, including without limitation, any title insurance companies providing (or wishing to provide) title insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of this transaction;
- f) any trades/suppliers or sub-trades/suppliers, who have been retained by or on behalf of the Vendor (or who are otherwise dealing with the Vendor), to facilitate the completion and finishing of the Unit and the installation of any extras or upgrades ordered or requested by the Purchaser;
- g) one or more providers of cable television, telephone, telecommunication, internet and/or security alarm services, as well as electricity, chilled water/hot water, gas and/or other similar or related services to the Property (or any portion thereof) and/or the Condominium, including without limitation, any company or companies retained by the Declarant or the Condominium from time to time to read any check or consumption meter(s) for water, electricity and/or gas service that may be appurtenant to any of the dwelling units, on a periodic basis, and to correspondingly issue invoices to the respective dwelling unit owners for the cost of their consumption of water, electricity and/or gas service;
- h) any relevant governmental authorities or agencies, including without limitation, the Land Titles Office (in which the Condominium is registered), the Ministry of Finance for the Province of Ontario (ie with respect to Land Transfer Tax), the Canada Revenue Agency (ie with respect to the HST), the Municipal Property Assessment Corporation (ie with respect to realty taxes), and the Financial Transactions & Reports Analysis Centre of Canada, also known as FINTRAC, and the Law Society of Upper Canada (ie. with respect to reporting any cash transactions and/or any client identification and verification particulars, as well as details of any client transactions, to assist the federal government and/or the Law Society in identifying potential fraudulent client activities or other criminal activities);
- i) Canada Revenue Agency, to whose attention the T-5 interest income tax information return and/or the NR4 non-resident withholding tax information return is submitted (where applicable), which will contain or refer to the Purchaser's social insurance number or business registration number (as the case may be), as required by Regulation 201(1)(b)(ii) of the *Income Tax Act R.S.C. 1985, as amended*;
- j) the Vendor's solicitors, to facilitate the interim occupancy and/or final closing of this transaction, to Teranet Enterprises Inc. (under whose auspices the deed/transfer of title to the Purchaser is ultimately registered through the Teraview Electronic Registration System), and to eClose Guaranteed Inc. (under whose auspices any or all of the interim closing documents and/or final closing documents will be electronically transmitted over the eClose website, for review and retrieval/downloading by the Purchaser's solicitor); and
- k) the condominium corporation, for purposes of facilitating the completion of the corporation's voting, leasing and/or other relevant records, and to the condominium's property manager, for the purposes of facilitating the issuance of notices, the collection of common expenses and/or implementing other condominium management/administration functions.

T-5 INTEREST INCOME TAX RETURN

- 2.14 The Purchaser acknowledges that the Vendor shall be obligated to issue to the Purchaser a T-5 interest income tax information return (in the prescribed form) pursuant to the provisions of Regulation 201(1)(b)(ii)B of the *Income Tax Act R.S.C. 1985, as amended*, in respect of any interest accrued to, or earned by, the Purchaser, pursuant to the terms and provisions of the Act and/or this Agreement.

NO OTHER REPRESENTATIONS

- 2.15 This offer, when accepted, shall constitute a binding agreement of purchase and sale. It is understood and agreed that there is no representation, warranty, collateral term or condition affecting this Agreement or the Property, or for which the Vendor or the owner of the Lands (or the Agent, or any sales representative) can be held responsible or liable in any way, whether contained, portrayed, illustrated or represented by (or in) any plan, drawing, brochure, display, model or any other sales/marketing material(s), or alleged against the Agent or any sales representative, other than as expressed herein in writing. **Without limiting the generality of the foregoing, it is understood and agreed by the parties hereto that the Purchaser shall not make or pursue any claim or proceeding against the Vendor, nor hold the Vendor responsible or liable in any way, either directly or indirectly (whether based or founded in contract law, tort law or in equity) for innocent misrepresentation, negligent misrepresentation or otherwise in respect of (or arising from) any statement, representation, warranty, collateral term or condition alleged to have been made by the Agent or any other sales representative (or by any other person alleged to represent the Vendor or purporting to bind the Vendor), save and except only for those representations of the Vendor specifically set forth in this Agreement.**

ARTICLE III - VENDOR'S OBLIGATIONS, RIGHTS AND OTHER MATTERS

SITE PLAN APPROVAL AND/OR MINOR VARIANCES BEING SOUGHT

- 3.01 The Purchaser acknowledges that the Vendor is (or may in the future be) processing and/or completing one or more minor variance applications with respect to the Lands (and/or the lands adjacent thereto or in the neighbouring vicinity thereof), as well as a site plan approval/development application with respect

to the Lands, in order to permit the development and construction of the Condominium thereon. The Purchaser acknowledges that during the minor variance and/or site plan approval process, the footprint or siting of the condominium building may shift from that originally proposed or intended, the overall height of the condominium building (and the number of levels/floors, and/or the number of dwelling units comprising the Condominium) may vary, and the location of the Condominium's proposed recreational facilities and amenities may likewise be altered, without adversely affecting the floor plan layout, design and size of the interior of the Unit, and the Purchaser hereby expressly agrees to complete this transaction notwithstanding the foregoing, without any abatement in the Purchase Price, and without any entitlement to a claim for damages or other compensation whatsoever. The Purchaser further covenants and agrees that it shall not oppose the aforementioned minor variance and site plan/development applications, nor any other applications ancillary thereto, including without limitation, any application submitted or pursued by or on behalf of the Vendor to lawfully permit the development and registration of the Condominium, or to obtain an increase in the density coverage or the dwelling unit count (or yield) thereof, or for any other lawful purpose whatsoever, and the Purchaser expressly acknowledges and agrees that this covenant may be pleaded as an estoppel or bar to any opposition or objection raised by the Purchaser thereto.

ONE OR MORE EXTENSIONS OF THE TENTATIVE OCCUPANCY DATE

- 3.02 If, in the Vendor's reasonable opinion, the Property will not likely be substantially completed by the First Tentative Occupancy Date to a stage sufficient to permit lawful occupancy thereof in accordance with the applicable requirements of the Governmental Authorities, then the Vendor may, in accordance with the provisions of the Tarion Addendum, unilaterally extend the First Tentative Occupancy Date (and any subsequent tentative occupancy date) on one or more occasions, for any period or periods of time not exceeding the Outside Occupancy Date.

ESTABLISHING THE FIRM OCCUPANCY DATE

- 3.03 a) The Vendor shall establish the Firm Occupancy Date in accordance with the provisions stipulated by the Tarion Addendum. The Tarion Addendum shall govern all matters pertaining to any changes to the Firm Occupancy Date (once set or deemed to be set), and any delays in the occupancy of the Unit, including any delayed closing compensation payable in connection therewith.
- b) As expressly permitted by the Tarion Addendum, the Vendor shall be entitled (but not obliged) to unilaterally extend the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) for one (1) Business Day, to avoid the necessity of tender, where the Purchaser is not ready, willing and able to complete the interim occupancy closing of this transaction on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), in accordance with the provisions of this Agreement (for example, where all the documents and certified funds required to be provided by the Purchaser or the Purchaser's solicitor in accordance with the provisions of this Agreement have not been delivered to the office of the Vendor's solicitor, or have been delivered late to the Vendor's solicitor, after 2:00 p.m. on the Firm Occupancy Date or the Delayed Occupancy Date, as the case may be). Any such extension for one (1) Business Day, if so granted or exercised by the Vendor, shall be evidenced and confirmed by notice in writing telefaxed or e-mailed by the Vendor's solicitor to the Purchaser's solicitor prior to 8:00 p.m. on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), in which case all adjustments shall remain as of the original Firm Occupancy Date or the Delayed Occupancy Date (as the case may be).
- c) It is understood and agreed that the Tarion Addendum does not restrict any extensions of the Closing Date (ie. the title transfer date), where occupancy of the Unit has already been given to the Purchaser (ie. pursuant to an earlier interim occupancy closing).

CONSTRUCTION MATTERS

- 3.04 a) The Purchaser acknowledges that the net suite area of the Unit, as may be represented or referred to by the Vendor or any sales agent, is approximate only, and is generally measured to the outside of all exterior, corridor and stairwell walls, and to the centre line of all party walls separating one dwelling unit from another. **NOTE: For more information on the method of calculating the floor area of any unit, reference should be made to Builder Bulletin No. 22 published by Tarion. Actual useable floor space may vary from any stated or represented floor area or gross floor area, and the extent of the actual or useable living space or net floor area within the confines of the Unit may vary from any represented square footage or floor area measurement(s) made by or on behalf of the Vendor.** In addition, the Purchaser is advised that the floor area measurements are generally calculated based on the middle floor of the Condominium building for each suite type, such that units on lower floors may have less floor space due to thicker structural members, mechanical rooms, etc., while units on higher floors may have more floor space. **Accordingly, the Purchaser hereby confirms and agrees that all details and dimensions of the Unit purchased hereunder are approximate only, and that the Purchase Price shall not be subject to any adjustment or claim for compensation whatsoever, whether based upon the ultimate square footage of the Unit, or the actual or useable living space within the confines of the Unit, or the net floor area of the Unit or otherwise, regardless of the extent of any variance or discrepancy with respect to the area (either gross or net) of the Unit, or the dimensions of the Unit.** The Purchaser further acknowledges and agrees that the ceiling height of the Unit (which may or may not be outlined or represented in Schedule "B" to this Agreement, describing the suite features and finishes), shall be measured from the upper surface of the concrete floor slab to the underside surface of the concrete ceiling slab. However, where ceiling bulkheads are installed within the Unit, and/or where dropped ceilings are required (in areas such as foyers, hallways, closets, laundry rooms, storage rooms, bathrooms, powder rooms, dining rooms and/or kitchens), then the Purchaser acknowledges and agrees that the ceiling height of the Unit in such areas will be less than the represented height, and the Purchaser shall correspondingly be obliged to accept any such reduction in height without any abatement or claim for compensation whatsoever, regardless of the significance in the ceiling height reduction or the extent or significance of the bulkheads.
- b) The parties hereto agree that the Purchaser shall meet with the Vendor's representative at the date and time designated by the Vendor, on or before the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), in order to conduct a pre-delivery inspection of the Unit (hereinafter referred to as the "Pre-Delivery Inspection"), and to list all items remaining uncompleted at the time of such inspection, together with all discernable and/or mutually-agreed deficiencies with respect to the Unit, on Tarion's Certificate of Completion and Possession, in the form prescribed from time to time by (and required to be completed pursuant to the provisions of) *the Ontario New Home Warranties Plan Act R.S.O. 1990, as amended*, and the regulations promulgated thereunder (which is referred to everywhere hereafter in this Agreement, except in the Tarion Addendum, as the "Tarion Legislation"). It is further understood and agreed that the most current version of the "homeowner information package" published by Tarion shall be delivered to the Purchaser by the Vendor no later than the date of the Pre-Delivery Inspection, and that said homeowner information package is also available for the Purchaser's review or possession at any prior time, directly from Tarion. The form and content of said homeowner information package has been prescribed or approved by Tarion, and said information package will include, amongst other things, standardized information for consumers about how the new home warranty process works, how to submit a claim to Tarion, outlining the time lines in which the Vendor must respond to the Purchaser's complaints (regarding any warrantable deficiencies in respect of the Unit) and is correspondingly obliged to repair any such warrantable defects, and identifying certain exceptions (such as emergency situations or seasonal items) where such stipulated time lines for effecting requisite repairs will change. The Purchaser shall be obliged to execute a confirmation of receipt of the homeowner information package, and to deliver same to the Vendor's representative forthwith following the Purchaser's receipt of the said homeowner information package, but in no event later than the date of the Pre-Delivery Inspection. In addition, the aforementioned Tarion Certificate of Completion and Possession shall be executed by both the Purchaser and the Vendor's representative, forthwith following the aforementioned inspection of the Unit. If the Purchaser is unable to personally attend and conduct the Pre-Delivery Inspection with the Vendor's representative, then the Purchaser shall be entitled to appoint and send a designate in his or her place, provided that the "Appointment of Designate for Pre-Delivery Inspection" form has been duly executed by the Purchaser and is delivered to the Vendor on or before the date of the Pre-Delivery Inspection. Said form of appointment can be obtained at any time, either from the Vendor, or from Tarion's website (at www.tarion.com), and expressly authorizes the Purchaser's designate to attend and conduct the Pre-Delivery Inspection (for and on behalf of the Purchaser) with the Vendor's representative, and to execute the following forms required by Tarion on behalf of the Purchaser (which shall then be binding upon the Purchaser to the same extent as if same had been personally executed by the Purchaser), namely: the Pre-Delivery Inspection form, the Certificate of Completion and Possession, and the Confirmation of Receipt of the Homeowner Information Package (if same has not already been signed by the Purchaser).
- c) Subject to clauses (i) and (ii) hereof, the Vendor agrees to rectify any deficient or incomplete construction items with respect to the Property that are covered or governed by the statutory warranties deemed to be given by the Vendor under the Tarion Legislation. In this regard, the Purchaser expressly acknowledges and agrees that:

- i) any warranties of workmanship or materials, in respect of any aspect of the construction of the Property, or of the common elements of the Condominium, whether expressed or implied by this Agreement, or imposed at common law or in equity, or by any statute or otherwise, shall be specifically restricted to those warranties deemed to be given by the Vendor under the Tarion Legislation, and shall extend only for the respective time periods (and only in respect of those items) stipulated or covered by the Tarion Legislation;
 - ii) the Purchaser may be disentitled to the statutory warranties stipulated or covered by the Tarion Legislation if, in fact, the Unit is not initially owner-occupied by the Purchaser and/or members of his or her immediate family; and
 - iii) any dispute involving construction deficiencies, incomplete work and/or missing items that are alleged or claimed by the Purchaser in respect of the Unit or any exclusive use common element area shall be resolved between the parties hereto through the processes established and/or administered by Tarion, and the condominium corporation shall have no rights or claim against the Vendor in respect of the common elements of the Condominium beyond those that are specifically granted to it under the Act and/or the Tarion Legislation.
- d) The Vendor shall complete the common elements as soon as reasonably practicable, but the failure of the Vendor to complete the common elements, or to complete the interior of the Unit beyond the minimum standards required by the Ontario Building Code in order to permit lawful occupancy thereof on or before the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), shall not entitle the Purchaser to refuse to take possession of the Property and/or complete this transaction on the scheduled interim occupancy closing date and/or final closing date, or to fail to remit to the Vendor the entire amount of purchase monies required to be paid by the Purchaser hereunder, or to maintain any holdback of any part of the Purchase Price, nor shall the non-completion of any portion of the common elements (including without limitation, any or all of the intended recreational facilities or amenities, outdoor landscaped areas, visitor parking, etc.) entitle the Purchaser to an abatement or waiver of the monthly occupancy fees so payable, in whole or in part (unless any such abatement or waiver is mandated by the Act or by Tarion), and the Vendor hereby undertakes to complete the Unit and all unfinished work and/or improvements thereto, in accordance with the provisions of this Agreement (and within the time frames required by Tarion in connection therewith), and to also complete all unfinished work with respect to the common elements within a reasonable time after the final closing of this transaction (weather conditions and the availability of all required materials, equipment and/or labour permitting) and in accordance with any time frames imposed by Tarion in connection with such common elements.
- e) The Purchaser acknowledges and agrees that the Vendor may, from time to time in its sole, unfettered and unchallenged discretion, due to site conditions or constraints, or for marketing considerations, or for any other legitimate reason, including without limitation any request or requirement of any of the Governmental Authorities, or any request or requirement of the Vendor's architect or other design consultants:
- i) **change the Property's municipal address or numbering of the Unit** (in terms of the unit number and/or level number ascribed to any one or more of the units comprising the Property);
 - ii) **change, vary or modify the plans and specifications pertaining to the Property or the Condominium**, or any portion thereof (including architectural, structural, engineering, landscaping, grading, mechanical, site servicing and/or other plans and specifications) from the plans and specifications existing at the inception of the project, or existing at the time that the Purchaser has entered into this Agreement, or as same may be illustrated in any sales brochure(s), model(s) in the sales office or otherwise, including without limitation, making any change to the total number of dwelling, parking, locker and/or other ancillary units intended to be created within the Condominium, and/or any change to the total number of levels or floors within the Condominium, as well as any changes or alterations to the design, style, size and/or configuration of any dwelling or other ancillary units within the Condominium;
 - iii) **change, vary, or modify the number, size and location of any window(s) and/or any heating, ventilation and/or air-conditioning equipment, fixtures and/or installations, as well as any column(s) and/or bulkhead(s), within or adjacent to (or comprising part of) the Unit**, from the number, size and/or location of same as displayed or illustrated in any sales brochure(s), model(s) or floor plan(s) previously delivered or shown to the Purchaser, including the insertion or placement of any window(s) and/or any heating, ventilation and/or air-conditioning equipment, fixtures and/or installations, as well as any column(s) and/or bulkhead(s), in one or more locations within the Unit, which have not been shown or illustrated in any sales brochure(s), model(s) or floor plan(s) previously delivered or shown to the Purchaser (regardless of the extent, significance or impact thereof), as well as the removal of any window(s) and/or any heating, ventilation and/or air-conditioning equipment, fixtures and/or installations, as well as any column(s) and/or bulkhead(s), from any location(s) previously shown or illustrated in any sales brochure(s), model(s) in the sales office or otherwise, on the express understanding and agreement that not only may some of the windows intended or depicted to be installed within the Unit be reduced or eliminated, but also that some of the windows installed within the Unit may not open (but rather are designed to be permanently closed); and/or
 - iv) **change the layout of the Unit such that same is a mirror image** of the layout shown on the schedule attached to this Agreement (or a mirror image of the layout illustrated in any sales brochure or other marketing material(s) delivered to the Purchaser), all without limiting the generality of the provisions set forth in Section 3.04 (e)(ii) above;

and that the Purchaser shall have absolutely no claim or cause of action whatsoever against the Vendor, the Agent or its sales representatives (whether based or founded in contract law, tort law or in equity) for any such changes, deletions, alterations or modifications, nor shall the Purchaser be entitled to any abatement or reduction in the Purchase Price whatsoever as a consequence thereof, nor any notice thereof (unless any such change, deletion, alteration or modification to the said plans and specifications is material or substantial in nature and significantly affects the fundamental character, use, size or value of the Property and/or the Condominium, in which case the Vendor shall be obliged to notify the Purchaser in writing of such change, deletion, alteration or modification as soon as reasonably possible after the Vendor proposes to implement same, or otherwise becomes aware of same), and where any such change, deletion, alteration or modification to the said plans and specifications is material or substantial in nature, then the Purchaser's only recourse and remedy shall be the termination of this Agreement prior to the Closing Date (and specifically within 10 days after the Purchaser is notified or otherwise becomes aware of such material change), and the concomitant return of the Purchaser's deposit monies, together with interest accrued thereon at the rate prescribed by the Act. The Purchaser further expressly acknowledges that the Vendor's ability to change, alter or modify the unit numbering and/or the plans and specifications pertaining to the Property and/or the Condominium, and/or the number of levels or floors within the Condominium, and/or the design, style, size and/or configuration of any units within the Condominium, is an essential requirement for the successful marketing, overall design and/or completion of the Condominium project (which is agreed to be to the mutual benefit of the Vendor and all unit purchasers), and that in consideration of the Purchaser assuming this risk of potential major or minor changes to the Property and/or the Condominium, the Purchaser hereby acknowledges having received the benefit (or potential benefit) of a sale price which may be lower than the prices that are (or may be) applicable to other units within the Condominium which are comparable to the Property, when same are fully constructed and completed, even though the Vendor makes no representation or warranty whatsoever that such a price reduction or benefit will, in fact, materialize or accrue to the Purchaser. Without limiting the generality of the foregoing provisions, it is understood and agreed that if the Unit is hereafter re-designed by the Vendor as a result of (or in connection with) the Vendor's re-design of the condominium building or a portion thereof, then the Purchaser will be offered the option of either transferring to another suite, with an appropriate adjustment in the Purchase Price where required, or alternatively being released from the obligations arising under this Agreement (pursuant to a mutual release & termination agreement that will be executed by both parties hereto) and getting a full refund of all deposit monies theretofore paid (together with all statutory interest earned or accrued thereon, calculated at the prescribed rate), but under no circumstances shall the Purchaser be entitled to claim any damages or entitlement to any compensation whatsoever for (or in connection with) any such re-design, or as a consequence thereof, nor shall the Purchaser be entitled to any abatement or reduction in the Purchase Price whatsoever in connection therewith (or as a consequence thereof), regardless of how substantial, significant or material the results, effect or impact of the re-design may be to the Purchaser.

- f) The Purchaser acknowledges that the Vendor may, from time to time, substitute such other materials utilized in the construction of the Property, the common elements of the Condominium, (or in any shared amenities), from those specified or contemplated in the Vendor's plans or specifications, provided that the quality of any substituted material(s) is equal to or better than the material(s) originally indicated in said plans or specifications.
- g) The Purchaser acknowledges and agrees that the filing of the Vendor's consulting engineers' certificate(s) with the Municipality, or the issuance by the Municipality of an occupancy certificate or such other confirmation that the Property may be occupied shall, subject to the provisions of Section 3.04(b) hereof and section 9 of the Tarion Addendum, constitute complete and absolute acceptance by the Purchaser of all construction matters pertaining to the

Property, and the quality and sufficiency thereof, including without limitation, all mechanical, structural and architectural matters pertaining to the Condominium and the Property.

- h) Notwithstanding anything contained in this Agreement to the contrary, it is understood and agreed by the parties hereto that in the event that construction of the Unit is not substantially completed sufficient to permit lawful occupancy thereof on or by the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), for any reason whatsoever except for the Vendor's wilful neglect, or in the event that the Purchaser cannot take possession of the Property on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) by reason of any fire damage or any other hazard or damage whatsoever occasioned to the Condominium and/or the Property (or to any portion thereof), then in either case the Vendor shall not be held responsible or liable for reimbursing the Purchaser for any costs, expenses and/or damages which may be suffered or incurred by the Purchaser as a result of such delay, hazard or damage, and specifically the Vendor shall not be responsible or liable for any costs and expenses incurred by the Purchaser in obtaining alternate accommodation pending the completion of the Unit or the rectification of any such damage occasioned thereto (or to any other portion of the condominium building), nor for any costs incurred in having to store or move the Purchaser's furniture or other belongings pending such completion or rectification work, save and except for any delayed closing compensation that the Vendor is obliged to pay the Purchaser (or to credit the Purchaser for, in the statement of adjustments on final closing) pursuant to the provisions of the Tarion Addendum.
- i) The Purchaser further agrees that the Vendor shall have the right to enter upon the Property after the completion of the within transaction, in order to complete and/or rectify those items which are included in the said Certificate of Completion and Possession, and the Vendor agrees to complete and/or rectify same within a reasonable time after Closing, in accordance with the requirements and time frames established by Tarion, having regard to the availability of equipment, materials and labour.
- j) The Purchaser (or the Purchaser's authorized designate) shall be obliged to execute Tarion's Certificate of Completion and Possession (sometimes hereinafter referred to as the "**Certificate**") prior to the Purchaser obtaining possession of the Property. In the event that the Purchaser (or the Purchaser's authorized designate) fails or refuses to execute the Certificate prior to the Closing Date, in those circumstances where the Vendor has duly attended at the Property for the purposes of conducting the pre-delivery inspection with the Purchaser (or the Purchaser's authorized designate) and completing the Certificate, then the Purchaser shall be in default of his or her obligations hereunder, and the Vendor shall be entitled to complete this transaction notwithstanding the foregoing, but shall be entitled to refuse to allow possession of the Property by the Purchaser until the Certificate has been duly executed by the Purchaser (or the Purchaser's authorized designate), or alternatively may complete the transaction and allow possession by the Purchaser upon the Vendor completing the Certificate unilaterally (by the Vendor listing all patent or known deficiencies and any incomplete items on the Certificate) and submitting same to Tarion with a notation on the Certificate (or accompanied by a separate letter) confirming the Purchaser's failure or refusal to execute the Certificate.
- k) The Purchaser acknowledges and agrees that the monies paid to the Vendor's solicitors as a deposit hereunder, and which may hereafter be secured by prescribed security as defined in the Act, shall be recognized and treated for the purposes of Section 1(l) of the *Construction Lien Act R.S.O. 1990, as amended*, as monies held in trust pursuant to the provisions of Section 81 of the Act, and the Purchaser shall accordingly be deemed and construed to be a "**home buyer**" within the meaning of Section 1(l) of the *Construction Lien Act R.S.O. 1990, as amended* (and shall not constitute an "owner" as defined in Section 1(1) thereof), and as such, the Purchaser shall not be entitled to request or demand that any holdback for construction liens be maintained for any part of the Purchase Price, whether on the interim occupancy closing or final closing of this transaction, or otherwise.
- l) The Purchaser shall not be entitled to enter upon the Lands prior to the scheduled pre-delivery inspection of the Unit, other than to visit the Vendor's sales office or customer service office (if applicable), unless accompanied by a representative of the Vendor. The Purchaser hereby releases the Vendor (and its agents, employees and contractors) from all liability for personal injury and/or property damage directly or indirectly occasioned or resulting from the entry by the Purchaser (or by any of the Purchaser's relatives, friends, agents or retained contractors) onto the Lands in contravention of the preceding sentence, and the Purchaser shall indemnify and save the Vendor harmless from and against all costs, claims, damages and/or liabilities arising from (or in connection with) any personal injury and/or property damage directly or indirectly occasioned or resulting from any such entry by the Purchaser (or by any of the Purchaser's relatives, friends, agents or retained contractors) onto the Lands in contravention of the preceding sentence.

FINISHES, APPLIANCES AND EXTRAS

- 3.05 a) **The Purchase Price shall include** those suite finishes and/or appliances more particularly listed in Schedule "B" hereto. The Purchaser acknowledges that the finishing materials contained in any model suite, customer service office or sales office are for display purposes only, and may not reflect the actual type, quality or grade of materials and/or finishes included in the Unit being constructed.
- b) **The Purchaser covenants and agrees to notify the Vendor, in writing within fifteen (15) days of the Vendor's request**, as to the tile, hard surface flooring, paint colours and/or cabinet finishes (or any other colours and finishes) chosen by the Purchaser from the Vendor's samples, and if the Purchaser fails to so notify the Vendor of his or her broadloom, tile, colour and/or finish selections within such time, then the Vendor may, at its option, make such selections for the Purchaser and the Purchaser shall be deemed to accept same absolutely and without qualification, provided that the Vendor shall have no obligation to make such selection and, in any event, the Vendor shall not be held liable for any delays in having the Unit substantially completed sufficient to permit occupancy thereof by the Firm Occupancy Date, and the Purchaser shall nevertheless be obliged to execute and deliver to the Vendor on the Firm Occupancy Date all documents and instruments required to be given to the Vendor on the Firm Occupancy Date as hereinbefore provided or contemplated, and shall also pay to the Vendor's solicitor the monies specified in paragraph 1(a)(iv) on page 1 of this Agreement, notwithstanding that the Unit may not be substantially completed sufficient to permit occupancy thereof by the Firm Occupancy Date.
- c) **In the event that the Purchaser fails to make such selections** as aforesaid, or in the event that the Purchaser fails to submit the requisite personal and financial information (and any other documents, instruments or verifications) which may be required or desired by the Vendor, the First Mortgagee and/or by any mortgage insurer (if applicable), pursuant to the foregoing provisions hereof, or if the Purchaser is in default under any other term or provision contained in this Agreement (and has failed to rectify such default within five (5) days of being notified in writing to do so), then the Vendor shall be unilaterally entitled to make all colour and finish selections as contemplated in Section 3.05 (b) above, on behalf of the Purchaser, and the Purchaser shall correspondingly be bound by such selections, and shall be estopped from instituting any claim(s) against the Vendor as the result of such selections and/or denying the Vendor's authority to make and implement same.
- d) In addition to the foregoing, in the event that the Purchaser chooses to make changes to the standard materials and specifications for the Unit which are otherwise provided by the Vendor, then the Vendor shall not be held liable for any delays in having the Unit substantially completed sufficient to permit occupancy thereof by the Firm Occupancy Date (provided such delays are as a result of such up-grading or revised work not being completed in time), and the Purchaser shall nevertheless be obliged to execute and deliver to the Vendor on the Firm Occupancy Date all documents and instruments required to be given to the Vendor on the Firm Occupancy Date as hereinbefore provided or contemplated, and shall also pay to the Vendor's solicitors the monies specified in paragraph 1(a)(iv) on page 1 of this Agreement, notwithstanding that the Unit may not be substantially completed by such date. If any of the Extras ordered by the Purchaser, through the Vendor, are not supplied or completed, for whatever reason, by the Closing Date, then the Vendor shall refund to the Purchaser either before or after the Closing Date (but in any event forthwith following the Vendor's determination that the Extras cannot reasonably be supplied or completed by the Closing Date or within a reasonable period of time thereafter) all amounts paid by the Purchaser to the Vendor in connection with same, and the amount so refunded by the Vendor to the Purchaser for the Extras (or for which, at the Vendor's option, the Purchaser shall receive a credit in the statement of adjustments on Closing) shall be accepted by the Purchaser as full and final settlement of any claim by the Purchaser with respect to the Extras, and the Purchaser acknowledges that the Vendor's liability with respect to the Extras shall be limited solely to the return of the amounts referred to as aforesaid, and upon such payment being made or credit being given, the Vendor, the Vendor's solicitors and the Agent shall be released from any and all obligations, claims or demands whatsoever with respect thereto.
- e) It is further understood and agreed that **the Vendor shall not be responsible or liable in any way to the Purchaser for the quality of (and/or the workmanship with respect to) the Extras**, unless same are supplied and/or constructed directly by the Vendor, and then only if the Vendor specifically agrees in writing to be responsible or liable for same. The Purchaser shall be obliged to forthwith advise the Vendor in writing as to the details of all Extras (if same are not ordered directly from the Vendor) so that the Vendor may assess whether any revisions to the plans and specifications of the Property are needed, and/or whether any additional up-graded materials or changed items are required from other tradesmen or suppliers, in order to facilitate or expedite the completion and installation of the Extras; and if such revisions or additional up-graded materials or changed items are required,

as determined by the Vendor in its sole and unfettered discretion, then the Purchaser agrees to pay for all such costs and expenses attributable and/or incidental to the completion and installation of same, which costs and expenses shall be paid to the Vendor's solicitors by certified cheque forthwith upon the Vendor's written demand for payment thereof. An amount reflecting the aggregate of the purchase price of any and all extras and/or upgrades so ordered or acquired from the Vendor by the Purchaser, and that have not been fully paid for by the Purchaser at the time of installation, shall be charged to the Purchaser in the statement of adjustments on final closing, unless the purchase of all such extras and/or upgrades is reflected in an addendum to this Agreement that has been executed by both parties hereto and which correspondingly increases the total purchase price or the balance due on closing by the aggregate amount of all such extras and/or upgrades so ordered or acquired by the Purchaser from the Vendor.

- f) Notwithstanding anything hereinbefore provided to the contrary, it is expressly understood and agreed by the parties hereto that with respect to any extras or upgrades to the Unit that are not intended to be supplied and/or constructed directly by (or under the supervision or control of) the Vendor, the Purchaser shall not arrange for any work, services and/or materials to be undertaken, installed, provided and/or delivered to the Unit in connection therewith, prior to the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) and the Purchaser's payment of all deposit monies provided for or contemplated in subparagraphs 1(a)(ii), (iii) and (iv) on page 1 of this Agreement, without the prior written consent of the Vendor (which consent may be unilaterally and arbitrarily withheld). Moreover, **prior to the final closing of this transaction, the Purchaser shall not make or undertake any work or improvement to the Unit (or to any exclusive use common element area appurtenant to the Unit), whether in the nature of an addition, alteration, improvement or otherwise, without the prior written consent or approval of the Vendor** (which consent or approval may be unilaterally and arbitrarily withheld), and where any such work or improvement has been so approved, then the Purchaser shall be obliged to promptly pay all outstanding accounts and invoices issued by any of the Purchaser's tradesmen, contractors or material suppliers who may be lawfully entitled to register a construction lien against the Property and/or the Lands (or any portion thereof) in connection with any such work or improvement. In the event that any such lien is registered on title, then the Purchaser shall be obliged to forthwith discharge and remove same at the Purchaser's sole cost and expense, failing which the Purchaser shall be in breach of this Agreement, and in the event that any such lien remains undischarged and continues to be registered on title later than two (2) days after written notice thereof has been delivered to the Purchaser or the Purchaser's solicitor by the Vendor or the Vendor's solicitor, then without prejudice to (and in addition to) any other rights and/or remedies that the Vendor may have (at law or in equity) as a consequence of such default or breach, the Vendor shall have the right (but not the obligation) to discharge or vacate the said lien by paying the amount claimed to be due (or such other amount, as may be required) directly into court (or alternatively by posting security for said lien with the court), in order to obtain a court order vacating such lien, and the amount so paid or posted by the Vendor shall then be payable by the Purchaser to the Vendor forthwith on demand. All legal costs, interest charges and any other costs and expenses incurred by the Vendor or any mortgagee of the Lands (including any lender providing construction financing in connection with the development of the Condominium) as a result of the registration of any such lien shall likewise be payable by the Purchaser to the Vendor forthwith on demand, or at the Vendor's option, same may be charged to the Purchaser in the statement of adjustments prepared by the Vendor in connection with the final closing of this transaction.
- g) The Purchaser acknowledges and agrees that insofar as the wood finishes, carpeting, hardwood flooring, tiles (including any marble or granite slabs used for flooring, walls or counter purposes), kitchen and bathroom cabinetry and/or other manufactured finishing materials installed within the Unit are concerned:
- i) the colour, texture and/or shading of such wood finishes, carpet, tiles, kitchen and bathroom cabinetry or other manufactured finishing materials may vary slightly from that of those selected by the Purchaser from the Vendor's samples, due to minor variations or shading in dye-lots produced or manufactured by the suppliers;
 - ii) the colour, finish, grain and/or veining of wood products (including hardwood flooring) and/or natural stone materials may vary slightly from that of the wood and/or stone materials selected by the Purchaser from the Vendor's samples, inasmuch as wood and stone are natural materials which inherently cannot be precisely replicated or matched with other pieces or samples, thereby accounting for variations of colour, finish, grain and/or veining even within the same lot or section of wood or stone (as the case may be); and
 - iii) the various types of flooring that may be installed within the Unit (such as carpeting, marble, granite, ceramic tile and/or hardwood floors, etc.) may result in different floor heights or levels (which shall be established by the Vendor in its sole and unchallenged discretion) between rooms or areas within the Unit having different flooring materials (for example, a height or level differential between ceramic floor tiles in the kitchen, and hardwood flooring in the adjacent livingroom), and in this regard the Vendor shall be entitled to use or install appropriate reducers in the transitional areas between rooms having different flooring materials;

and the Purchaser shall accordingly be estopped from claiming any entitlement to an abatement in the Purchase Price, or any replacement (in whole or in part) of the carpet, hardwood flooring, tiles, kitchen cabinetry, manufactured finishing materials or wood products or flooring so installed, or any other relief or claim for compensation from or against the Vendor or Tarion as a result of the variations hereinbefore described or contemplated.

DAMAGE BEFORE CLOSING

3.06 The Condominium building and all equipment contained therein shall be and remain at the risk of the Vendor until Closing. In the event of any physical damage to the Condominium or the Property (or to any portion thereof) caused by fire, explosion, flood, lightning, tempest, act of God, act of war or act of terrorism, or by any other insurable peril occurring prior to the final closing of this transaction (and whether before or during the Purchaser's occupancy of the Unit) which renders the Unit uninhabitable, then it is understood and agreed that:

- a) if any such damage can be substantially repaired within one (1) year from the date of the damage occurring, as determined jointly by the Vendor and the project architect acting reasonably (and which determination shall be final and binding on the parties hereto, and not subject to challenge or appeal under any circumstances whatsoever), then such damage shall be deemed and construed to constitute an "Unavoidable Delay", as such term is defined in section 12 of the Tarion Addendum, in which case the provisions pertaining to Unavoidable Delay and the corresponding extension of the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) outlined in the Tarion Addendum shall apply and prevail in such circumstances, and if the Purchaser has already taken possession of the Unit at the time of such damage, then the Purchaser's existing occupancy of the Property shall thereupon be temporarily suspended for the duration of the Unavoidable Delay Period (as such term is defined in section 12 of the Tarion Addendum), and the monthly rental or occupancy fees so payable by the Purchaser to the Vendor shall correspondingly be abated and suspended during and throughout the Unavoidable Delay Period; and
- b) if the Vendor's construction lender elects to appropriate all (or substantially all) of the available insurance proceeds (if any) so triggered by such damage to reduce, *pro tanto*, the Vendor's outstanding indebtedness to it, and/or is unwilling to lend or advance any monies required to rebuild and/or repair such damage, or if such damage cannot be substantially repaired within one (1) year from the date of the damage occurring, as determined jointly by the Vendor and the project architect acting reasonably (and which determination shall be final and binding on the parties hereto, and not subject to challenge or appeal under any circumstances whatsoever), then in either case such damage shall be deemed and construed for all purposes to have frustrated the completion of this transaction and this contract, and if the Purchaser has already taken possession of the Unit at the time of such damage, then the Purchaser's existing occupancy of the Property shall thereupon be forthwith terminated, and all monies paid by the Purchaser on account of the Purchase Price (inclusive of all monies paid to the Vendor for extras and/or upgrades) shall be fully refunded to the Purchaser, together with all interest accrued thereon at the prescribed rate, and the Vendor shall not be liable for any costs and/or damages incurred by the Purchaser thereby whatsoever, whether arising from (or in connection with) the termination of the Purchaser's existing occupancy of the Property, or the termination of this transaction, by virtue of the frustration of this contract occurring through no fault of the Vendor.

CONDITIONAL ON PLANNING ACT COMPLIANCE AND CONDOMINIUM REGISTRATION

3.07 If the Condominium Documents have not yet been registered by the Vendor as at the date of this Agreement, then in accordance with the provisions of section 6(i) of the Tarion Addendum, the parties hereto hereby expressly acknowledge and agree that this Agreement (and the completion of this transaction) shall be conditional until Closing upon the Vendor's compliance with the subdivision-control and part lot-control provisions of the *Planning Act R.S.O. 1990, as amended* and the concomitant registration of this Condominium under the Act, which compliance and condominium registration shall be obtained by the Vendor at its sole cost and expense, failing which [in the absence of any extension of the Closing established or implemented by the Vendor pursuant to (and in accordance with) the provisions of the Tarion Addendum] this Agreement shall automatically be terminated and of no further force and effect, and the

Vendor and the Purchaser shall have no further liabilities or obligations hereunder, and neither of the parties hereto shall thereafter be liable to the other for any costs and/or damages that may be suffered or incurred by them in connection with this Agreement, or the termination thereof as a result of such non-registration of the Condominium, save and except for any delayed closing compensation that may be payable by the Vendor to the Purchaser in connection therewith pursuant to the provisions of the Tarion Addendum, and upon such termination all monies paid towards the Purchase Price (inclusive of all monies paid on account of extras and/or upgrades) shall be refunded to the Purchaser, together with all interest earned or accrued thereon at the rate prescribed by the Act, and without deduction of any kind, save for any deduction for the cost or price of any Extras ordered by the Purchaser and as yet unpaid.

RIGHT OF RE-ENTRY

3.08 Notwithstanding the Closing of this transaction, and for a period of two (2) years thereafter, the Vendor or any of its authorized representatives shall be entitled at all reasonable times to enter the Unit in order to make inspections, and to do any work or repairs to the Unit or to the Condominium required by the Vendor in its sole discretion. In addition to the foregoing, the Purchaser agrees that the Vendor shall have the right to enter upon and within the Unit (or any portion thereof) after the completion of this purchase and sale transaction, in order to relocate or alter any services or utilities which serve and benefit the Unit and/or any other unit(s) or common element area within the Condominium, provided that the Vendor restores the Unit to the same condition as existed prior to undertaking such work, but the Vendor shall not be liable or responsible for any consequential damages or losses of the Purchaser and/or its tenant(s), including without limitation, any additional expenses which may be occasioned or incurred during the time period of such work.

CUMULATIVE REMEDIES

3.09 No right or remedy herein conferred upon or reserved to the Vendor is intended to be exclusive of any other right or remedy arising under or by virtue of this Agreement (or arising pursuant to the general common law, in equity or by statute, or otherwise), and each and every right or remedy in favour of the Vendor shall be cumulative, and shall be in addition to every other right or remedy conferred upon (or reserved to) the Vendor pursuant to the provisions of this Agreement or otherwise available to the Vendor at law or in equity or by statute. Every right and/or remedy conferred upon (or reserved to) the Vendor by this Agreement may be exercised by the Vendor from time to time, as often as may be deemed expedient by the Vendor.

WAIVER

3.10 None of the respective rights and/or remedies of the Vendor (whether arising under or by virtue of this Agreement, or pursuant to the general common law, or in equity, or by statute, or otherwise) shall be capable of being waived or varied except pursuant to (and by virtue of) an express waiver or variation in writing duly executed by the Vendor. Without limiting the generality of the foregoing, any failure to exercise (or any delay in exercising) any of the respective rights and/or remedies of the Vendor shall not operate as a waiver or variation of that or any other of such rights and/or remedies; any defective or partial exercise of any of such rights and/or remedies shall not preclude any other or future exercise of that or any other of such rights and/or remedies; no act or course of conduct, nor any negotiation on the part of the Vendor, shall in any way preclude the Vendor from exercising any such rights and/or remedies, or constitute a suspension or variation of any such rights and/or remedies; and any waiver of an event of default or breach of this Agreement committed by or on behalf of the Purchaser shall apply only to the particular event of default or breach so waived, and shall not operate as a waiver of any other event of default or breach.

DECLARANT'S INTENTION TO LEASE UNSOLD UNITS

3.11 The Purchaser acknowledges that the Declarant of the Condominium may, from time to time, lease any and all unsold units in the Condominium to one or more third party tenants, for any period or periods of time, for residential purposes (and/or any uses or purposes ancillary thereto, in accordance with the provisions of the applicable zoning by-laws of the City, as may be amended from time to time).

DISCLAIMER

3.12 Notwithstanding the generality of any other provisions contained in this Agreement to the contrary, it is understood and agreed that **all models, plans, sketches, illustrations and/or displays utilized by or on behalf of the Vendor, including all descriptions, dimensions and/or representations indicated thereon or implied thereby, are merely reflective or indicative of the proposed condominium project, or various aspects thereof (and/or any other phases with respect thereto, if applicable) as originally conceived or intended, and in effect as at the time of their respective creation, and are therefore subject to one or more changes being made or implemented with respect thereto from time to time (whether significant or otherwise), without any notice thereof required to be given to the Purchaser.** Without limiting the generality of the foregoing, all unit purchasers (and prospective unit purchasers) are hereby advised that:

- a) the height, colour, size, shape, texture, dimensions, specifications and/or design of the:
 - i) exterior facade of the proposed condominium project and/or any future condominium phases with respect thereto;
 - ii) interior and exterior common element areas, including all roadways, walkways, ramps, driveway exits and/or landscaped areas; and
 - iii) recreational facilities and amenities, if specifically provided for in the disclosure statement;
- b) the layout, shape and/or size of the proposed condominium's building footprint, and/or the location, size and height of the proposed condominium building(s) in relation to any other present or future structure(s);
- c) the total number of dwelling, parking, locker and/or service units within the proposed condominium, and/or the total number of levels comprising the proposed condominium;
- d) the number, location, design and/or size of the windows within any dwelling unit(s); and/or
- e) the patio, balcony or terrace area(s) appurtenant to any dwelling unit(s), if applicable;

are subject to change, and may be varied at any time and from time to time, without notice to the Purchaser.

ARTICLE IV - TITLE, NOTICES, CLOSING AND TENDER

TITLE

4.01 Provided that the title to the Property is good and free from all encumbrances, save as otherwise provided or contemplated in this Agreement. **The Purchaser specifically agrees to accept title to the Property (and the Lands) on the Closing Date subject to any and all:**

- a) registered restrictions or covenants that run with the Lands (or any portion thereof), including without limitation, any site-specific municipal by-law(s) and/or heritage designation by-law(s) and any ancillary heritage easement(s) and/or preservation agreement(s) arising therefrom or in connection therewith, together with any record of site condition, any Certificate of Requirement and/or Certificate of Property Use issued by the Ministry of Environment under the provisions of the *Environmental Protection Act R.S.O. 1990, as amended* (or any successor environmental legislation), including any such certificate or risk management plan requiring the ongoing monitoring and/or testing of indoor air quality and/or ground water that may be discharged into the local sewer system, or involving any other matter or substance pertaining to the condominium project being developed on the Lands (or any portion thereof), as well as any encroachment agreement(s) with any Governmental Authorities or any adjacent land owner(s) [including, without limitation, any encroachment agreement between the Vendor or the condominium corporation and the local municipality which allows for any component of the condominium building (e.g. any below-grade structure, or any overhead sign band, canopy or awning, etc.) to encroach below, above or within

the adjacent public road allowance, and which may also impose ongoing obligations on the Condominium to maintain and repair the encroaching structure or component, to obtain and maintain insurance with respect to such encroachment in favour of the local municipality, and to pay an annual fee to the local municipality for the latter's permission to maintain such encroachment], provided that same are complied with as at the Closing Date:

- b) easements, rights-of-way and/or licences now registered (or to be registered hereafter) for the supply and installation of utility services, drainage, telephone services, electricity, gas, storm and/or sanitary sewers, water, cable television and/or any other service(s) to or for the benefit of the Condominium (or to any adjacent or neighbouring properties), including any easement(s) which may be required by the Vendor, or by any owner(s) of any adjacent or neighbouring properties, for servicing and/or access to (or entry from) such properties, including any below-grade, at grade or above-grade encroachments and related easements areas, as well as any overhead air access/easement area for the swinging of any crane(s), which may be appurtenant to the Lands (or any portion thereof) or to which the Lands (or any portion thereof) may be subject and encumbered thereby, together with any easement and cost-sharing agreement(s) or reciprocal agreement(s) confirming (or pertaining to) any easement or right-of-way for access, egress, support and/or servicing purposes, and/or pertaining to the sharing of any services, facilities and/or amenities with any adjacent or neighbouring property owner(s) or condominium corporation(s), provided that any such easement and/or cost-sharing agreements or reciprocal agreements are (insofar as the obligations thereunder pertaining to the Lands, or any portion thereof, are concerned) complied with as at the Closing Date;
- c) registered municipal agreements and registered agreements with any publicly-regulated or private utility authorities or providers, any local ratepayer associations, any quasi governmental authorities or agencies (such as Metrolinx, or any predecessor or successor entity thereto, or the Toronto Transit Commission) and/or any railway companies or transit authorities owning or controlling any adjacent or neighbouring lands (or operating any railway line, subway, light rapid transit line or bus/streetcar transit line on adjacent or neighbouring lands), including without limitation, any development agreement, site plan agreement, subdivision agreement, engineering agreement, section 37 density bonus/development agreement and/or any other municipal agreement(s) [as well as any other agreements entered into with any of the Governmental Authorities, quasi governmental authorities or agencies and/or railway companies or transit authorities, or any utility authorities or providers (ie. with respect to water, electricity and/or natural gas service), as a prerequisite to (or in connection with) the development of the Condominium on the Lands (or any portion thereof)], and possibly including any agreement(s) with the local municipality requiring the installation of any publicly-accessible outdoor park, landscaped amenity space or other type of amenity area, and/or the permanent installation and display of any public art, and the ongoing maintenance, repair and/or replacement thereof in accordance with the requirements imposed by the local municipality or its delegated authority or designated agent (including any restrictions prohibiting access thereto by the general public, as well as any restrictions on the removal or alteration of any such public art), as well as any agreement(s) with Metrolinx (or any predecessor or successor entity thereto) and/or with any of the aforementioned railway companies, transit authorities or utility authorities or providers which may require the erection and ongoing maintenance and repair of a crash wall, and/or may impose outstanding noise, vibration, electromagnetic interference and/or air quality control measures with respect to the development of the Condominium on the Lands (or any portion thereof) and/or in connection with the ongoing occupation of the Condominium, together with one or more restrictive covenants restricting or prohibiting any exterior additions or alterations to the habitable buildings so developed on the Lands (or any portion thereof), and prohibiting any alterations to the existing grading and drainage patterns of the Lands (or any portion thereof), along with an outstanding easement in favour of Metrolinx (or any predecessor or successor entity thereto) and/or in favour of any of the aforementioned railway companies, transit authorities or utility authorities or providers for operational emissions (eg. with respect to noise, vibrations, smoke, dust, etc.) which may emanate from any adjacent or nearby lands that may be owned or operated by Metrolinx (or any predecessor or successor entity thereto) or by any of the aforementioned railway companies, transit authorities or utility authorities or providers, and which may correspondingly impact the Lands (or any portion thereof), and expressly including those agreements more specifically described in paragraph 4.02(a) hereof (with all of such agreements hereinbefore described or contemplated being hereinafter collectively referred to as the "Development Agreements"), provided that same are complied with as at the Closing Date, or security has been posted by the Vendor [or its predecessor(s) in title] in such amounts and on such terms as may be required by the relevant Governmental Authorities, quasi governmental authorities or agencies, railway companies, transit authorities or utility authorities or providers (as the case may be) to ensure compliance therewith and/or the completion of any outstanding obligations thereunder;
- d) unregistered or inchoate liens for unpaid utilities in respect of which no formal bill, account or invoice has been issued by the relevant utility authority (or if issued, the time for payment of same has not yet expired), without any claim or request by the Purchaser for any utility holdback(s) or reduction/abatement in the Purchase Price, provided that the Vendor delivers to the Purchaser the Vendor's written undertaking to pay all outstanding utility accounts owing with respect to the Property (including any amounts owing in connection with any final meter reading(s) taken on or immediately prior to the Closing Date, if applicable), as soon as reasonably possible after the completion of this transaction;
- e) outstanding mortgages (and any other security collateral thereto, including any general assignment of rents and leases) registered against the Property and not intended to be assumed by the Purchaser, provided that the Vendor delivers to the Purchaser, on or before the Closing Date:
- i) a letter from each of the outstanding mortgagees (or from their respective solicitors) confirming that within a reasonable time after the Closing Date and the Purchaser's payment to the Vendor's solicitor (or to one or more of the outstanding mortgagees, if so directed by the Vendor's solicitor) of all monies owing to the Vendor on account of the Purchase Price (including the balance due on Closing as per the statement of adjustments prepared by or on behalf of the Vendor), a partial discharge of the said outstanding mortgage security in respect of the Property shall be delivered to the Vendor's solicitor for registration on title (or alternatively an irrevocable e-reg authorization and direction will be executed and delivered to the Vendor's solicitor authorizing the latter to electronically register a partial discharge of the mortgagee's outstanding mortgage security in respect of the Property, following the Vendor's solicitor's receipt of the outstanding balance due on closing paid by the Purchaser in accordance with the statement of adjustments prepared by and on behalf of the Vendor); and
 - ii) the Vendor's solicitor's personal written undertaking to obtain and register a partial discharge of the said outstanding mortgage security in respect of the Property, within a reasonable time after the later of the Closing Date, or the date that all monies owing to the Vendor on account of the Purchase Price (including the balance due on Closing as per the statement of adjustments prepared by or on behalf of the Vendor) have been paid in full by the Purchaser;
- f) the terms, provisions, restrictions and conditions contained in the registered Condominium Documents; and
- g) any Land Registrar's order(s) that has been registered on title to correct the legal description of the Lands (or any portion thereof) or any reference(s) to any prior registered instrument(s), or to alter, correct or affect any other notation on the parcel register.

IT IS UNDERSTOOD AND AGREED THAT THE VENDOR SHALL NOT BE OBLIGED TO OBTAIN OR REGISTER ON TITLE TO THE PROPERTY A RELEASE OF (OR AN AMENDMENT TO) ANY OF THE AFOREMENTIONED EASEMENTS, DEVELOPMENT AGREEMENTS, RECIPROCAL AGREEMENTS OR RESTRICTIVE COVENANTS, NOR SHALL THE VENDOR BE OBLIGED TO HAVE ANY OF SAME DELETED FROM THE TITLE TO THE PROPERTY, AND THE PURCHASER HEREBY EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE PURCHASER SHALL SATISFY HIMSELF OR HERSELF AS TO COMPLIANCE THEREWITH. The Purchaser agrees to observe and comply with the terms and provisions of the Development Agreements, and all restrictive covenants registered on title. The Purchaser further acknowledges and agrees that the retention by the local municipality within which the Lands are situate (sometimes hereinafter referred to as the "Municipality"), or by any of the other Governmental Authorities, of security (eg. in the form of cash, letters of credit, a performance bond, etc.), satisfactory to the Municipality and/or any of the other Governmental Authorities) intended to guarantee the fulfilment of any outstanding obligations under the Development Agreements shall, for the purposes of the purchase and sale transaction contemplated hereunder, be deemed to be satisfactory compliance with the terms and provisions of the Development Agreements.

- 4.02 a) Subject to (and without limiting the generality of) the preceding Section 4.01 hereof, **the Purchaser acknowledges and agrees that title to the Property and/or the Lands, or any portion thereof, is (or may on Closing be) subject to following agreements, easements and/or interests [as well as those specific instruments, agreements, restrictive covenants, easement and/or interests more particularly described in Section 4.02(a) of Schedule "AA" annexed hereto, commencing with Section 4.02(a)(viii) of said Schedule "AA"], and expressly agrees to comply with (and abide by) all of the terms and provisions of said instruments, agreements, covenants and easements (as the case may be), AND THE PURCHASER SHALL NOT REQUIRE (NOR REQUISITION) ANY RELEASES OR DISCHARGES OF SAME WITH RESPECT TO THE PROPERTY OR THE**

LANDS, NOR REQUEST (OR REQUISITION) ANY AMENDMENTS WITH RESPECT THERETO, NOR ANY CONFIRMATION (OR EVIDENCE) OF COMPLIANCE THEREWITH, namely:

- i) a right of re-entry or licence in favour of the Vendor and/or the City, and each of their respective designated representatives, to enter upon the Lands (or any portion thereof) at any time or times after Closing, for the purposes of inspecting, maintaining and/or repairing any municipal works, services and/or facilities installed or constructed within the confines of the Condominium, on the express understanding and agreement that such right of re-entry or licence shall be deemed and construed to arise from and upon the date of registration of this Condominium, and shall automatically expire on the 7th anniversary of the date of registration of this Condominium;
 - ii) an easement in perpetuity in favour of the local hydro-electric utility authority or the electricity provider selected by the Vendor (the "**Electricity Company**") over, under, upon, across and through the common elements of the Condominium, for the purposes of facilitating the installation, operation, maintenance and/or repair of the Electricity Company's electrical plant, pipes, conduits, lines, cables and/or equipment (and all necessary appurtenances thereto) in order to facilitate the supply of electricity to the Condominium and the units therein, and if so requested by the Electricity Company, title may also be subject to an agreement between the Condominium and the Electricity Company pertaining to the provision of electricity and related services to the Condominium (hereinafter referred to as the "**Electricity Agreement**"), on the express understanding and agreement that the Electricity Company may retain ownership of all pipes, wires, cables, conduits and appurtenant equipment associated with the provision and distribution of electricity to each of the units and the common elements of the Condominium, as well as ownership of any or all hydro-electric or electricity meters or sub-meters appurtenant to each of the dwelling units in this Condominium;
 - iii) an easement in perpetuity in favour of the local gas utility authority or the gas service provider selected by the Vendor (the "**Gas Company**") over, under, upon, across and through the common elements of the Condominium for the purposes of facilitating the installation, operation, maintenance and/or repair of the Gas Company's gas lines (and all necessary appurtenances thereto) in order to facilitate the supply of gas service to the Condominium, and if so requested by the Gas Company, title may also be subject to an agreement between the Condominium and the Gas Company pertaining to the provision of gas service to the Condominium (hereinafter referred to as the "**Gas Agreement**"), and possibly subject to a notice of security interest in favour of the Gas Company with respect to any fixtures or equipment installed by the Gas Company within any portion of the lands and premises encompassed within the Condominium's description plan, on the express understanding and agreement that the Gas Company may retain ownership of all pipes, wires, cables, conduits and appurtenant equipment associated with the provision and distribution of gas service to each of the units and the common elements of the Condominium;
 - iv) an easement in perpetuity in favour of the cable television and/or telecommunication service provider selected by the Vendor, or the owner of the communication control unit in the Condominium, or a company associated, affiliated with or related to the Vendor (hereinafter collectively referred to as the "**Cable Company**") over, under, upon, across and through the common elements of the Condominium for the purposes of facilitating the installation, operation, maintenance and/or repair of the Cable Company's cable television and/or telecommunication lines and equipment (and all necessary appurtenances thereto) in order to facilitate the supply of cable television and/or telecommunication services to each of the units in the Condominium, and to facilitate the promotion, marketing and/or provision of the Cable Company's cable television and/or telecommunication services to each of the units in the Condominium, with each unit owner being separately billed or invoiced directly by the Cable Company for all cable television and/or telecommunication services so consumed, and if so requested by the Cable Company, title may also be subject to an easement/servicing agreement between the Condominium and the Cable Company pertaining to the promotion, marketing and/or provision of cable television and/or telecommunication services to the Condominium (hereinafter referred to as the "**Cable Agreement**"), on the express understanding and agreement that the Cable Company may retain ownership of all wires, cables, conduits and appurtenant equipment associated with the provision and distribution of cable television and/or telecommunication services to each of the units and the common elements of the Condominium;
 - v) an easement in perpetuity in favour of the telephone service provider selected by the Vendor (hereinafter referred to as the "**Telephone Company**") over, under, upon, across and through the common elements of the Condominium for the purposes of facilitating the installation, operation, maintenance and/or repair of the Telephone Company's telephone lines and equipment (and all necessary appurtenances thereto) in order to facilitate the supply of telephone services to each of the units in the Condominium, with each unit owner being separately billed or invoiced directly by the Telephone Company for all telephone services so utilized, and if so requested by the Telephone Company, title may also be subject to an easement/servicing agreement between the Condominium and the Telephone Company pertaining to the provision of telephone and/or other related services to the Condominium (hereinafter referred to as the "**Telephone Agreement**"), on the express understanding and agreement that the Telephone Company may retain ownership of all wires, cables, conduits and appurtenant equipment associated with the provision and distribution of telephone and/or other related services to each of the units and the common elements of the Condominium;
 - vi) a site plan or condominium development agreement between the Vendor and the City pertaining to the development of the Condominium on the Lands, together with any supplementary and/or amending agreement(s) with respect thereto (hereinafter collectively referred to as the "**Condominium Development Agreement**"), and which agreement may provide for, amongst other things, the maintenance of grading and drainage patterns, emergency fire/access routes, landscaping and other site completion matters, and/or address any other outstanding municipal concerns involving the ongoing operation and maintenance of the Condominium; and
 - vii) an assumption agreement entered into by this Condominium with the Vendor and/or the City, pursuant to which this Condominium shall formally assume all outstanding and/or ongoing obligations and liabilities of the Vendor arising under the Condominium Development Agreement, including the obligation to maintain the works, services and/or facilities constructed or installed on the lands and premises encompassed within the condominium description plan of the Condominium (hereinafter referred to as the "**Condominium Assumption Agreement**"), and pursuant to which the Vendor shall be fully released and discharged from all such obligations and liabilities.
- b) The Purchaser further agrees to accept **title to the Property subject to the Condominium Documents being registered on title**, notwithstanding that same may be amended and varied from the proposed Condominium Documents which were given to the Purchaser when entering into this Agreement. The Purchaser further acknowledges and agrees that the registered Condominium Documents and final budget statement for the one year period immediately following registration of the Condominium may vary from the proposed Condominium Documents and budget statement given to the Purchaser when entering into this Agreement, and the Purchaser hereby acknowledges and agrees that:
- i) **in the event there is a "material change" to this Condominium's disclosure statement and accompanying materials** (as the term "material change" is defined in Section 74(2) of the Act), or any material or significant amendment to any of the documentation or information comprising the Condominium Documents (whether or not registered on title), **then the Purchaser's only remedy and recourse shall be limited and restricted to the Purchaser's statutory right to rescind this Agreement (and obtain a refund of all deposit monies paid hereunder, together with all interest earned or accrued thereon at the rate prescribed by the Act) pursuant to the provisions of Section 73(2) or Section 74(6) of the Act, within ten (10) days of the Purchaser receiving notice of (or otherwise becoming aware of) such material change or amendment, and under no circumstances shall the Purchaser be entitled to claim specific performance and/or damages (either legal or equitable) against the Vendor or the Agent as a result thereof**, notwithstanding any rule of law or equitable principle to the contrary, nor shall the Purchaser be entitled to claim any abatement or set-off against the Purchase Price therefor, nor institute or pursue any other legal or equitable claim or relief whatsoever in connection therewith; and
 - ii) **in the event there are one or more non-material changes to this Condominium's disclosure statement and accompanying materials**, or any minor amendments to any of the documentation or information comprising the Condominium Documents (whether or not registered on title), **then the Purchaser shall simply accept any and all of such minor or non-material changes without any objection thereto whatsoever**, and shall proceed to complete this transaction as and when scheduled in accordance with the provisions of this Agreement, and shall not make or pursue any claim (nor seek any remedy or compensation whatsoever) for any or all of such minor or non-material changes, and under no circumstances shall the Purchaser be entitled to claim specific performance and/or damages (either legal or equitable) against the Vendor or the Agent as a result thereof, notwithstanding any rule of law or equitable principle to the contrary, nor shall the Purchaser be entitled to claim any abatement or set-off against the Purchase Price therefor, nor institute or pursue any other legal or equitable claim or relief whatsoever in connection therewith.

Without limiting the generality of the foregoing, it is expressly understood and agreed that the Vendor shall be entitled to unilaterally make changes to the proposed first year budget statement from time to time, on one or more occasions prior to the final closing of this transaction, as and when deemed necessary or appropriate by the Vendor to accurately reflect projected costs and/or any increases with respect to same, and in the event that any such change or series of changes (either individually or collectively) is (or would be) considered or construed by a court of competent jurisdiction to be material, then the Purchaser's only right, remedy and recourse in such circumstances is to rescind this agreement, in writing, within ten (10) days of the Purchaser or the Purchaser's solicitor receiving notice of any such revision(s) to the budget statement, failing which this transaction shall proceed to completion and the Purchaser shall not be entitled to thereafter claim specific performance and/or damages (either legal or equitable) against the Vendor or the Agent as a result of any such change or series of changes to the budget, nor shall the Purchaser be entitled to claim any abatement or set-off against the Purchase Price therefor, nor institute or pursue any other legal or equitable claim or relief whatsoever in connection therewith.

- c) The Purchaser agrees that **this Agreement shall be subordinated to and postponed to any and all of the mortgages arranged or given by the Vendor** (and presently registered or to be registered on title to the Lands) and to all advances made thereunder from time to time, and to any easements or agreements referred to herein to which title may be subject, and to all of the Condominium Documents. The Purchaser agrees to execute all necessary documents and provide all requisite assurances in order to give effect to the foregoing, as and when required or requested by the Vendor or the Vendor's solicitors.
- d) The Purchaser shall not register, or cause to be registered, this Agreement against the title to the Property and/or the Lands (or any portion thereof), nor any notice of this Agreement, nor any caution, certificate of pending litigation or other similar instrument, court process or notice, until after the completion of the purchase of the Property in accordance with the terms hereof, it being expressly understood and agreed by the parties hereto that in no event shall the Purchaser be deemed or construed to have any legal, equitable or proprietary interest whatsoever in the Property and/or the Lands (or any portion thereof) prior to the completion of this transaction and the payment of the entire Purchase Price to the Vendor or the Vendor's solicitors as hereinbefore provided, and that the Purchaser's only remedy against the Vendor for breach of this Agreement shall be rescission and a claim for the return of the Purchaser's deposit monies (inclusive of all monies paid for extras or upgrades to the Unit), together with all interest earned or accrued thereon at the rate prescribed under the Act, and not a claim for specific performance or damages. Any registration by the Purchaser in contravention of this subparagraph shall constitute a fundamental breach of this Agreement, entitling the Vendor to the rights, remedies and powers hereinafter set out.
- e) The Purchaser further covenants and agrees to accept title to the Property subject to the covenants and restrictions hereinbefore and hereinafter described, and to accept a transfer/deed containing such covenants and restrictions (or any form similar thereto), and the Purchaser hereby undertakes and agrees to abide by such covenants and restrictions after the Closing Date, and to exact similar covenants and restrictions from his or her immediate successors in title to the Property, all of which shall be assigned to and for the benefit of the Vendor. The dominant lands to which the foregoing covenants and restrictions are intended to be annexed, and which are being benefited thereby, comprise all or any portion of the Lands, and any lands adjacent thereto or in the neighbouring vicinity thereof (i.e. within a maximum radius of one mile) which are owned or retained by the Vendor.
- f) The Purchaser further agrees to accept title from the registered owner of the Property and to accept such owner's title covenants in lieu of the Vendor's, in the event that the Vendor is not the registered owner of the Property on Closing. The Vendor shall be entitled to insert in the transfer specific covenants by the Purchaser pertaining to any or all of the restrictions, easements, covenants and agreements referred to in this Agreement, and in such case, the Purchaser may be required to execute the transfer prior to Closing to evidence and confirm the Purchaser's acceptance, approval and/or assumption of same, or the Vendor may require that the Purchaser execute and deliver a separate written covenant or acknowledgement (to and in favour of the Vendor) on Closing, which evidences and confirms the Purchaser's acceptance, approval and/or assumption of said restrictions, easements, covenants and/or agreements so referred to.
- g) At any time prior to Closing, the Vendor shall be permitted to assign this Agreement (and its rights, benefits and interests hereunder) to any person, firm, partnership or corporation registered as a vendor with Tarion, and upon any such assignee assuming all obligations under this Agreement and notifying the Purchaser or the Purchaser's solicitor of such assignment, the Vendor named herein shall thereupon be automatically released from (and relieved of) all obligations and liabilities to the Purchaser arising under or from this Agreement, and said assignee shall be deemed for all purposes to be the vendor herein as if it had been an original party to this Agreement, in the place and stead of the Vendor, and any such assignment shall not be considered or construed as constituting (or giving rise to) a material change to the disclosure statement, and shall not entitle the Purchaser to refuse to complete this transaction or rescind this Agreement pursuant to Section 74 of the Act, under any circumstances whatsoever.
- h) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed that if the Purchaser comprises more than one individual, then all individuals comprising the Purchaser shall be deemed and construed to have acquired the dwelling unit purchased hereunder (and all parking, locker and/or other units ancillary thereto, if any) on joint account with right of survivorship, and accordingly should any of the individuals comprising the Purchaser die before the final closing of this transaction, then the Vendor is hereby irrevocably authorized and directed to engross the deed/transfer of title in the name of the surviving individual(s) comprising the Purchaser, without requiring probate of the deceased individual's last will and testament (and regardless of the provisions of any last will and testament of the deceased individual comprising the Purchaser and/or any rules applicable on his or her intestacy), provided however that the surviving individual(s) comprising the Purchaser shall nevertheless be obliged to deliver to the Vendor's solicitor a notarial copy of the death certificate, or the funeral director's certificate, or other satisfactory proof of death of the deceased individual comprising the Purchaser, and shall also be obliged to execute and deliver, on or before Closing, the Vendor's standard form of indemnity pursuant to which the surviving individual(s) comprising the Purchaser shall jointly and severally indemnify and save the Vendor and its solicitors harmless from and against all costs, claims, damages and/or liabilities which either or both of them may suffer or incur as a result of transferring title to the Property to the surviving individual(s) exclusively (including any claims from any children, relatives or other heirs of the deceased individual comprising the Purchaser, or from any beneficiaries of the estate of the deceased individual comprising the Purchaser).

NOTICES BETWEEN THE PARTIES

- 4.03 a) Any notice required to be given under (or pursuant to the provisions of) the Tarion Addendum, shall be in writing and given to the Purchaser or the Vendor as applicable (and may also be sent to their respective solicitors, if such lawyer contact information is provided), and any such notice shall be deemed to have been sufficiently given to the intended party if same is either:
- i) personally delivered to the Purchaser or the Vendor (as the case may be), at the address of the Purchaser or the Vendor so noted or identified on page 2 of the Tarion Addendum, or any replacement address as may be provided pursuant to paragraph 14(c) of the Tarion Addendum;
 - ii) sent by courier to the Purchaser or the Vendor (as the case may be), at the address of the Purchaser or the Vendor so noted or identified on page 2 of the Tarion Addendum, or any replacement address as may be provided pursuant to paragraph 14(c) of the Tarion Addendum;
 - iii) sent by prepaid registered mail to the Purchaser or the Vendor (as the case may be), to the address of the Purchaser or the Vendor so noted or identified on page 2 of the Tarion Addendum, or any replacement address as may be provided pursuant to paragraph 14(c) of the Tarion Addendum;
 - iv) sent by telefax to the Purchaser or the Vendor (as the case may be), via the telefax number of the Purchaser or the Vendor so noted or identified on page 2 of the Tarion Addendum, or any replacement fax number as may be provided pursuant to paragraph 14(c) of the Tarion Addendum; or
 - v) sent by e-mail to the Purchaser or the Vendor (as the case may be), via the e-mail address of the Purchaser or the Vendor so noted or identified on page 2 of the Tarion Addendum, or any replacement e-mail address as may be provided pursuant to paragraph 14(c) of the Tarion Addendum.
- b) Any notice given or sent pursuant to the provisions of the Tarion Addendum by any of the foregoing means, shall be deemed to have been effectively given (and correspondingly deemed to have been received by the intended party) on:
- i) the date of such personal delivery or telefax transmission or e-mail transmission (as the case may be), or the next Business Day thereafter if the date of such personal delivery or such telefax or e-mail transmission was not made or given on a Business Day;

- ii) the second (2nd) Business Day following the date of sending same by courier; or
- iii) on the fifth (5th) Business Day following the date that same was sent by registered mail, except that if a postal stoppage or interruption occurs, then notices shall not be sent by registered mail, and any notice sent by registered mail within five (5) Business Days prior to the commencement of the postal stoppage or interruption shall be re-sent by any other of the foregoing permitted means, in order to be effective;

provided however that for the purposes of deeming when the foregoing notices have been received, the term "Business Day", when used in this subparagraph (b) or subparagraph (c) below, shall be deemed to include Remembrance Day (if it falls on a day other than Saturday or Sunday) and Easter Monday.

- c) Any notices required or desired to be given to either of the parties hereto in connection with this transaction, other than those notices that are required to be given or sent by the Vendor pursuant to the provisions of the Taron Addendum, shall be in writing, and may be given or sent:
 - i) by either party hereto to the other, in accordance with any of the methods outlined in subparagraph (a) above, and if so given shall correspondingly be deemed to have been received by the intended recipient on the respective dates outlined in subparagraph (b) above; and/or
 - ii) by the Vendor to the Purchaser by way of a courier, telefax or e-mail transmission given or sent by the Vendor's solicitor directly to the Purchaser's solicitor, at the Purchaser's solicitor's address, fax number or e-mail address (as the case may be), and if so given same shall be deemed, for all purposes, to have been received by both the Purchaser and the Purchaser's solicitor on the date of such courier delivery, telefax transmission or e-mail transmission to the Purchaser's solicitor (as the case may be), or on the next Business Day thereafter if the date of such courier delivery, telefax or e-mail transmission was not made or given on a Business Day.

TENDER - GENERAL

4.04 Subject to the overriding provisions of Section 4.05 hereof, any tender of documents or monies hereunder shall be made upon the Vendor and the Purchaser, or upon their respective solicitors, and notwithstanding anything hereinbefore or hereinafter provided to the contrary, **all monies due or payable by the Purchaser on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) and/or on the Closing Date, shall be tendered only by way of a certified cheque made payable to the Vendor's solicitors and drawn upon the trust account of the Purchaser's solicitor, and which account must be maintained at or with a Canadian chartered bank or trust company.** In the event that a bank draft is delivered for all (or any part of) the balance of the purchase monies due on closing, rather than (or in lieu of) a certified cheque drawn on the Purchaser's solicitor's trust account, then the Vendor and the Vendor's solicitors shall not be obliged to accept such bank draft unless and until it is also accompanied by a letter from the Purchaser's solicitor unequivocally confirming that all funds used to purchase or acquire said bank draft emanated from the Purchaser's solicitor's trust account maintained at or with a Canadian chartered bank or trust company, and not from the bank account of the Purchaser or any third party who is not a solicitor, and that the bank draft was issued by the Purchaser's solicitor's bank (and not the bank of any other person who is not a solicitor). In the event that such tender relates to the **interim occupancy closing** contemplated in Section 2.08 (a) hereof, then such tender shall be made on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) by the attendance of the parties hereto, or their respective solicitors or authorized representatives, at the office of the Vendor's solicitors (as set out on page 1 of this Agreement), and the office of the Vendor's solicitors shall be deemed to be the only and proper location of any such tender. Moreover, in the absence of an appointment to the contrary, such attendance (and the corresponding delivery of all required documents and certified funds) **shall occur at the office of the Vendor's solicitors between the hours of 1:00 p.m. and 2:00 p.m. in the afternoon of the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be).** In the event that such tender relates to the **final closing** of this transaction [evidenced by, amongst other things, the Vendor's delivery to (or tender upon) the Purchaser or the Purchaser's solicitor of a transfer/deed in respect of the Property, in registerable form], then such tender shall be effected pursuant to (and in accordance with) the overriding provisions of Section 4.05 hereof. The Purchaser hereby acknowledges and agrees that the key(s) to the Property shall be released to the Purchaser directly from the sales office, or the Vendor's construction site office, as soon as this transaction has been completed (either on an interim occupancy basis, or on an outright final closing basis), and the Vendor shall not otherwise be required to produce or deliver a key to the Property or the Unit on either of the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), nor on the Closing Date, nor as part of any tender in connection therewith.

ELECTRONIC REGISTRATION OF DOCUMENTS AND TENDER

4.05 In light of the fact that the Province of Ontario's electronic registration system (hereinafter referred to as the "Teraview Electronic Registration System" or "TERS") is operative on a mandatory basis in the applicable Land Titles Office in which the Lands are registered, the parties hereto hereby waive personal tender upon each other, and it is understood and agreed that the following provisions shall prevail, namely:

- a) The Purchaser shall be obliged to retain a lawyer, who is both an authorized TERS user and in good standing with the Law Society of Upper Canada, to represent the Purchaser in connection with the completion of this transaction, and shall authorize such lawyer to enter into a document registration agreement which outlines the procedures and timing for completing this transaction electronically, in the form of agreement adopted and approved by the Joint LSUC-CBAO Committee on Electronic Registration of Title Documents on March 29th, 2004 (and posted to the Law Society's web site on April 8th, 2004), or any successor version thereof which has been adopted and approved by the Law Society at the time of the final closing of this transaction, together with the following additional requirements (and which Law Society-approved agreement, as supplemented or revised in accordance with the following provisions, is hereinafter collectively referred to as the "**Document Registration Agreement**"), namely:
 - i) that if either the Vendor's solicitor or the Purchaser's solicitor receives a Teraview message, phone call or other communication from the Land Titles Office after closing regarding any problem or deficiency concerning any of the electronic documents so registered, then the solicitor receiving such message or communication shall forthwith advise the other solicitor of same, and both solicitors shall co-operate with each in an expeditious manner and take all requisite steps to forthwith correct, re-sign for completeness and re-register, as and where necessary, any of the electronic documents intended to be registered, so that same can thereafter be certified by the Land Titles Office;
 - ii) that where **keys to the Unit** are to be given or released to the Purchaser in connection with the interim closing or final closing of this transaction, then such keys may not be delivered directly to the Purchaser's solicitor in escrow, but rather upon the Vendor's solicitor having received all required documents and certified funds from the Purchaser or the Purchaser's solicitor as and when required pursuant to the provisions of this Agreement, then the Vendor's solicitor shall forthwith instruct the Vendor's customer service representative to release the keys to the Unit directly to the Purchaser (or to the Purchaser's duly authorized representative), on the express understanding and agreement that if the keys are called to be released after 5:00 p.m., then the Purchaser shall not be able to pick same up until the next day thereafter that the Vendor's sales office or construction site office is open for business, and the Purchaser hereby expressly agrees to such arrangements;
 - iii) that **any uncashed rent or occupancy fee cheques** in connection with the final closing of this transaction need not be delivered by the Vendor or the Vendor's solicitors directly to the Purchaser or the Purchaser's solicitors, whether in connection with any tender or otherwise, but rather all such uncashed rent or occupancy fee cheques shall be picked up by the Purchaser (or may be viewed and photocopied only by the Purchaser's solicitor, in the event of a tender) at the Vendor's sales office or customer service office (or at any other location so determined by the Vendor), and if such cheques have not been picked up by the Purchaser within one (1) month after the final closing of this transaction, then the Vendor shall be at liberty to thereafter destroy such cheques, without any notice to the Purchaser, and the Purchaser shall have no claim or cause of action against the Vendor as a result of same; and
 - iv) that a photocopy, a telefaxed copy or a scanned/e-mailed copy of the duly executed Document Registration Agreement (whether executed by hand or by electronic means) may be relied upon by each of the Vendor's solicitor and the Purchaser's solicitor, to the same extent as if it were an original executed version.
- b) The Document Registration Agreement shall be executed by both the Vendor's solicitor and the Purchaser's solicitor, and exchanged by courier or telefax between said solicitors (such that each solicitor has a photocopy or telefaxed copy of the Document Registration Agreement duly executed by both solicitors) by no later than five (5) days before the Closing Date. However, should either solicitor fail to execute and deliver the Document Registration Agreement to the other solicitor by such time, then said solicitor who fails to execute same shall nevertheless be bound by (and be obliged to comply with)

the provisions of the Document Registration Agreement as described above. Without limiting the generality of the foregoing, the parties hereto confirm and agree that the delivery and exchange of documents, monies and keys to the Property, and the release thereof to the Vendor and/or the Purchaser, as the case may be:

- i) shall not occur contemporaneously with the registration of the transfer/deed (and other registerable documentation); and
 - ii) shall be governed by the Document Registration Agreement, pursuant to which the solicitor receiving any documents, keys and/or certified funds will be required to hold same in escrow, and will not be entitled to release same except in strict accordance with the provisions of the Document Registration Agreement.
- c) If the Purchaser's lawyer is unwilling or unable to complete this transaction via TERS, in accordance with the provisions contemplated under the Document Registration Agreement, then said lawyer (or the authorized agent thereof) shall be obliged to personally attend at the office of the Vendor's solicitor, at such time on the scheduled Closing Date as may be directed by the Vendor's solicitor or as mutually agreed upon (and in the absence of any such mutual agreement, by no later than 1:00 p.m. on the scheduled Closing Date), in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's solicitor's office.
- d) The Purchaser expressly acknowledges and agrees that the Vendor shall not be requested nor required to release the transfer/deed to the Property for registration electronically unless and until the **balance of all funds due on closing, in accordance with the Vendor's statement of adjustments, are remitted by certified cheque to the Vendor's solicitor (or in such other manner as the Vendor's solicitor may authorize or direct), and correspondingly received by the Vendor's solicitor (along with all other required documentation from the Purchaser or the Purchaser's solicitor) by no later than 2:00 p.m. on the scheduled Closing Date at the office of the Vendor's solicitor.** Without limiting the generality of the foregoing, and notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed that:
- i) **if the Purchaser is not ready, willing or able to complete the interim occupancy closing and/or the final closing** of this transaction by delivering all required documents and/or certified funds to the Vendor's solicitors by 2:00 p.m. on the scheduled interim occupancy closing date or final closing date (as the case may be), **and the Purchaser or the Purchaser's solicitor correspondingly requests or requires an extension of the interim closing date or the final closing date (as the case may be) in order to avoid or delay being tendered upon as a consequence of such default, then in the absence of any subsequent written agreement to the contrary executed by the parties hereto or by their respective solicitors, any such extension that is agreed to by or on behalf of the parties hereto shall correspondingly entitle the Vendor to charge interest on a per diem basis** for every day of the agreed-upon extension period, **at the rate of 12% per annum**, calculated annually not in advance, calculated and accruing on the entire outstanding amount of money that is due and owing or otherwise payable on said interim occupancy closing date or final closing date (as the case may be), and the Purchaser's failure to remit a certified cheque made payable to the Vendor's solicitors for all such accrued interest, in addition to a certified cheque for the entire balance of the monies otherwise due and owing (or to include such accrued interest amount with the certified cheque for the entire balance of the monies otherwise due and owing) on the agreed-upon extended interim occupancy closing date or extended final closing date (as the case may be) shall automatically entitle the Vendor and the Vendor's solicitors to refuse to complete this transaction and to refrain from providing occupancy of the Unit to the Purchaser on the interim closing of this transaction and/or to refrain from electronically releasing the deed/transfer of title to the Property to the Purchaser's solicitor on the final closing of this transaction;
 - ii) if and when the Purchaser is in default of his or her obligations under this Agreement, and whether such default pertains to the interim occupancy closing and/or the final closing of this transaction or otherwise, then **from and after the date of such default and the Vendor's solicitor's tender upon the Purchaser or the Purchaser's solicitor in connection therewith and as a consequence thereof (as hereinbefore provided), to and until the date that the Purchaser has fully rectified his or her default** and this transaction has correspondingly been completed on an interim occupancy or final closing basis (as the case may be), or to and until the date that this transaction has been formally terminated as a consequence of the Purchaser's default and concomitant failure to rectify same within five (5) days of being notified to do so in writing by the Vendor's solicitor (pursuant to the Vendor's solicitor's written correspondence confirming such termination), **the Vendor shall be entitled to charge interest at the rate of 12% per annum**, calculated annually not in advance, computed and accruing on the entire outstanding amount of money that is due and owing or otherwise payable on said interim occupancy closing date or final closing date (as the case may be), with such interest commencing to accrue **from the date of default and tender as aforesaid, to and until the full rectification of said outstanding default** and the actual interim occupancy closing or final closing of this transaction (as the case may be), and the Purchaser's failure to remit a certified cheque made payable to the Vendor's solicitors for all such accrued interest, in addition to a certified cheque for the entire balance of the monies otherwise due and owing (or to include such accrued interest amount with the certified cheque for the entire balance of the monies otherwise due and owing) shall automatically entitle the Vendor and the Vendor's solicitors to refuse to complete this transaction and to refrain from providing occupancy of the Unit to the Purchaser on the interim closing of this transaction and/or to refrain from electronically releasing the deed/transfer of title to the Property to the Purchaser's solicitor on the final closing of this transaction; and
 - iii) **if and when the Purchaser is in default of his or her obligations under this Agreement, and as a consequence thereof the Vendor has effected a tender upon the Purchaser or the Purchaser's solicitor** in accordance with the foregoing provisions of this Agreement, **and subsequently thereafter the Purchaser purports to rectify such default** to the Vendor's satisfaction prior to the delivery by the Vendor or the Vendor's solicitor of formal written notice of the termination of this Agreement as a consequence of such default, **then the Purchaser agrees to fully reimburse the Vendor** on the interim closing or final closing of this transaction (as the case may be, depending on which closing the default relates to), by way of a separate certified cheque made payable to the Vendor's solicitors and delivered on the interim closing or final closing of this transaction (as the case may be) **for all reasonable legal fees and disbursements incurred by the Vendor and correspondingly charged by the Vendor's solicitor with respect to all correspondence and dealings with the Purchaser and/or the Purchaser's solicitor in connection with such default, tender and/or the rectification thereof**, which reimbursement shall be **in the amount of \$950.00 (plus HST)**, and the Purchaser's failure to remit a certified cheque made payable to the Vendor's solicitors in said amount on the actual interim occupancy closing or final closing of this transaction (as the case may be) shall automatically entitle the Vendor and the Vendor's solicitors to refuse to complete this transaction and to refrain from providing occupancy of the Unit to the Purchaser on the interim closing of this transaction and/or to refrain from electronically releasing the deed/transfer of title to the Property to the Purchaser's solicitor on the final closing of this transaction, inasmuch as the Purchaser's default shall not be considered or construed to be rectified unless and until the interest amount so payable pursuant to the immediately preceding subsection 4.05(d)(ii), as well as the amount for the Vendor's solicitors legal fees and disbursements so payable pursuant to this subsection 4.05(d)(iii), have been received by the Vendor's solicitors.
- e) Each of the parties hereto agrees that the delivery of any documents not intended for registration on title to the Real Property may be delivered to the other party's solicitor by e-mail or telefax transmission (or by a similar system reproducing the original), provided that all documents so e-mailed or telefaxed have been duly and properly executed by the appropriate parties/signatories thereto. The party transmitting any such documents shall also provide the original executed version(s) of same to the recipient within two (2) Business Days after the Closing Date, unless the recipient has indicated that he or she does not require such original copies.
- f) Notwithstanding anything contained in this Agreement or in the Document Registration Agreement to the contrary, it is expressly understood and agreed by the parties hereto that:
- i) **An effective tender shall be deemed to have been validly made by the Vendor upon the Purchaser when the Vendor's solicitor has:**
 - A. delivered all closing documents and/or any requisite funds (if applicable) to the Purchaser's solicitor in accordance with the provisions of the Document Registration Agreement;
 - B. advised the Purchaser's solicitor, in writing, that the Vendor is ready, willing and able to complete this transaction in accordance with the terms and provisions of this Agreement, and that the keys to the Property have already been (or will be) made available for pickup by the Purchaser at the Vendor's sales office or site office forthwith following the interim occupancy closing or final closing of this transaction (as the case may be) completed in accordance with the provisions of this Agreement; and

C. has completed all steps required by TERS in order to complete this transaction that can be performed or undertaken by the Vendor's solicitor without the cooperation or participation of the Purchaser's solicitor, and specifically when the Vendor's solicitor has electronically "signed" the transfer/deed (and any vendor take-back mortgage, if applicable to this transaction) for "completeness" and has granted access thereto to the Purchaser's solicitor via TERS (but without the Vendor's solicitor or the Vendor's solicitor's secretary or law clerk releasing same for registration by the Purchaser's solicitor);

without the necessity of personally attending upon the Purchaser or the Purchaser's solicitor with the aforementioned documents, keys and/or funds, and without any requirement to have an independent witness evidencing the foregoing.

ii) In the event that:

A. TERS is unavailable to the Vendor's solicitor on the Closing Date for any reason whatsoever;

B. **the Vendor's solicitor receives the required documents and monies** to be provided by the Purchaser or the Purchaser's solicitor in accordance with the provisions of this Agreement **after 2:00 p.m. on the Closing Date;** or

C. **the Purchaser is not ready, willing and able to complete the final closing of this transaction on the Closing Date** in accordance with the provisions of this Agreement;

then in any of the foregoing circumstances, the Vendor shall be entitled (but not obliged) to unilaterally extend the Closing Date for one (1) Business Day, in order to avoid the necessity of tender, by notice in writing telefaxed or e-mailed by the Vendor's solicitor to the Purchaser's solicitor prior to 8:00 p.m. on the Closing Date, in which case all adjustments shall remain as of the original Closing Date, provided however that if the Unit has already been occupied by the Purchaser pursuant to an interim occupancy closing that has occurred prior to the Closing Date, **then the Vendor shall also be entitled to add to the amount otherwise payable** by the Purchaser on Closing (as set out in the final statement of adjustments) **interest on the amount so payable at the rate of 12% per annum**, calculated annually not in advance, with all such amounts (together with interest accrued thereon as aforesaid) to be paid on such extended Closing Date, by certified cheque made payable to the Vendor's solicitor in trust, and the Purchaser's failure to remit such certified cheque inclusive of such interest amount **shall automatically entitle the Vendor and the Vendor's solicitors to refuse to complete this transaction and to refrain from electronically releasing the deed/transfer of title to the Property to the Purchaser's solicitor.**

REQUISITIONS

- 4.06 a) The Purchaser shall examine the title to the Property and the Lands, and shall correspondingly conduct all requisite searches and procure all requisite clearances and certificates in connection with the completion of this transaction, all at the Purchaser's sole cost and expense, and shall not requisition the production by the Vendor or the Vendor's solicitor of any surveys, title deeds, abstracts of title, grading certificates, occupancy certificates and/or condominium status certificates, nor any proof or evidence of the title or occupiability of the Property whatsoever, save and except for either an occupancy permit or a signed written confirmation by the Vendor which evidences or confirms that the conditions for residential occupancy in respect of the Unit have been fulfilled, as expressly provided or contemplated in section 9 of the Tarion Addendum. The Purchaser shall be allowed to submit his or her requisitions as to title and with respect to any other matters, up until fifteen (15) days prior to the Closing Date set forth in (or established by) this Agreement, and if within that time the Purchaser shall furnish the Vendor in writing with any valid objection to title, or to any outstanding work order, which the Vendor shall be unable or unwilling to remove, remedy or satisfy, or obtain title insurance in respect thereof in favour of the Purchaser and any mortgagee(s) financing the Purchaser's acquisition of the Property (with all related premiums for such insurance to be borne by the Vendor at its sole cost and expense), and which requisition(s) or objection(s) the Purchaser will not waive, then this Agreement shall, notwithstanding any intervening acts or negotiations, be null and void, and all deposit monies theretofore paid (inclusive of any monies paid by the Purchaser on account of extras or upgrades to the Unit) shall be returned to the Purchaser, together with interest earned and accrued thereon at the rate prescribed under the Act, and without deduction of any kind, save for any deduction for the cost or price of any Extras ordered by the Purchaser and as yet unpaid, and the Vendor shall have no further liability or obligation hereunder, and shall not be liable for any costs or damages incurred by the Purchaser thereby. Save as to any valid objection(s) so made within such time, the Purchaser shall be conclusively deemed to have accepted the title to the Property. The Purchaser acknowledges and agrees that the Vendor shall be entitled to respond to some or all of the requisitions submitted by or on behalf of the Purchaser through the use of a standard title memorandum or title advice statement prepared by the Vendor's solicitors, and that same shall constitute a satisfactory manner of responding to the Purchaser's requisitions, thereby relieving the Vendor and the Vendor's solicitors of the requirement to respond directly or specifically to the Purchaser's requisitions.
- b) In the event that the electronic registration system is operative on an optional basis in the applicable Land Titles Office in which the Lands are registered, and the Vendor has correspondingly elected (at its sole option, and in its sole and unfettered discretion) to utilize said system, or alternatively in the event that the electronic registration system is operative on a mandatory basis in said Land Titles Office, then in either of such circumstances it is understood and agreed that any reference in this Agreement which obliges a party to register a document on title to the Property or the Lands shall be equivalent to (and shall be deemed and construed to constitute) an obligation on said party to obtain the requisite e-reg authorization from their client and to complete and register such document in an electronic format, as may be required by the Teraview Electronic Registration System and the Ministry of Government & Consumer Services (or any successor Ministry) regulating same.
- c) The Purchaser hereby expressly waives the requirement for the Vendor to deliver any or all of the information and/or documentation prescribed pursuant to the provisions of the *Green Energy Act 2009* and/or the regulations promulgated thereunder, relating to the energy consumption and/or energy efficiency of the Property (or any portion thereof) and/or the Condominium (or any portion thereof). In light of the foregoing, it is understood and agreed that any request or requisition made by or on behalf of the Purchaser for any such information and/or documentation contemplated under the *Green Energy Act 2009* (and specifically the information and/or documentation required pursuant to section 3 thereof, and any regulations with respect thereto) shall automatically be null and void, and of no force or effect whatsoever (and need not be answered or satisfied by the Vendor or the Vendor's solicitor), and the Purchaser shall nevertheless be obliged to complete this transaction without same.

THE VENDOR'S ELECTRONIC CLOSING SYSTEM

- 4.07 a) It is understood and agreed that the Vendor intends to utilize the services of an internet-based electronic transaction management system to assist the Purchaser, the Vendor, and their respective solicitors in preparing the documents (and managing the procedures) required to complete the interim occupancy closing and the final closing of this transaction (hereinafter referred to as the "**Electronic Closing System**") through a secure password-protected internet website utilized by the Vendor (hereinafter referred to as the "**eClose website**"). As a result, the Purchaser acknowledges and agrees that the Vendor's **delivery of some or all of the interim closing and/or final closing documents**, as well as some or all of the Condominium Documents, and/or any amendments to same (including any corrigenda to the disclosure statement, any revised budget statement and/or any status certificate or accompanying documentation) **may be delivered electronically**, by the Vendor or the Vendor's solicitor uploading any such documentation **on the internet, via the eClose website**, and making same available for downloading (and ultimately for photocopying) by the Purchaser's solicitor (or alternatively, if the Vendor's solicitor so chooses, by the Vendor's solicitor e-mailing such documentation directly to the Purchaser's solicitor), and delivery by such means shall be considered acceptable and effective for all purposes. In light of the foregoing, the Purchaser shall be obliged to retain a lawyer who is in good standing with the Law Society of Upper Canada and who either:
- i) is (or following the execution of this Agreement, takes all necessary steps to become) a registered user of the Electronic Closing System administered by eClose Guaranteed Inc. (the particulars of which can be obtained through the Vendor's sales office or the Vendor's solicitors), to facilitate both the interim occupancy closing and the final closing of this transaction; **OR**
- ii) declines to become a registered user of the Electronic Closing System or is otherwise unable or unwilling to access and/or utilize the Electronic Closing System to facilitate both the interim occupancy closing and the final closing of this transaction, in which case, the Purchaser acknowledges that the Vendor's solicitors shall then be required to employ additional non-electronic systems and procedures in order to communicate with the Purchaser's lawyer in completing this transaction, and the Purchaser shall correspondingly be obliged to **pay to the Vendor's solicitors (or**

correspondingly reimburse the Vendor on Closing for) all additional legal fees and ancillary disbursements which may be incurred by the Vendor or charged by the Vendor's solicitors in order to implement such additional non-electronic systems and procedures (with the Vendor's solicitors' legal fees for implementing same being \$500 plus HST for each of the interim closing package and/or the final closing package, and with such fees being subject to increase, from time to time, without any requirement or obligation to notify the Purchaser of same prior to closing). The Purchaser's failure to remit a certified cheque for such fees (made payable to the Vendor's solicitors) on the interim closing or final closing of this transaction (as the case may be) shall automatically entitle the Vendor and the Vendor's solicitors to refuse to complete this transaction and to refrain from providing occupancy of the Unit to the Purchaser and/or to refrain from electronically releasing the deed/transfer of title to the Property to the Purchaser's solicitor.

- b) Notwithstanding the utilization of the Electronic Closing System to manage and complete this transaction, it is nevertheless understood and agreed that the issues of tender, and the delivery and/or exchange of documents, monies and keys to the Property, and the release thereof to the Vendor and the Purchaser (as the case may be), shall continue to be governed by (and be subject to the overriding provisions of) Section 4.05 hereof.

CONSENT TO THE DELIVERY OF DOCUMENTS IN ELECTRONIC FORMAT

- 4.08 Pursuant to the provisions of *the Electronic Commerce Act 2000, S.O. 2000, as amended*, the Purchaser hereby expressly consents to the delivery by the Vendor or the Vendor's solicitor of the condominium disclosure statement and the documents accompanying same, and any amendments thereto [including without limitation, any corrigenda to the disclosure statement, and any documents pertaining to the interim occupancy closing and/or final closing of this transaction, and any other information and/or documentation pertaining to this transaction (such as the Form 4 Certificates issued in connection with the Purchaser's deposit cheques, pursuant to section 81(6) of the Act)], in electronic format [including without limitation, by copying such documents onto a computer disk that is delivered to the Purchaser or the Purchaser's solicitor (instead of being in paper format), or by delivering same via e-mail at the e-mail address of the Purchaser or the Purchaser's solicitor, or by posting such information or documentation on the internet via the password-protected customer website utilized by the Vendor to communicate with the Purchaser], if the Vendor chooses to do so. In addition, the Purchaser acknowledges and agrees that copies of the registered declaration and by-laws of the Condominium (including any agreements authorized by any of the by-laws) may be delivered to the Purchaser's solicitor via the Vendor's electronic closing system described in Section 4.07 hereof, rather than being delivered directly to the Purchaser or the Purchaser's solicitor in paper format.

ARTICLE V - EXECUTION OF DOCUMENTS, MISCELLANEOUS PROVISIONS AND DEFAULT

EXECUTION OF DOCUMENTS

- 5.01 a) The Purchaser hereby irrevocably constitutes and appoints the Vendor to be (and act as) the Purchaser's lawful attorney and agent, and which power of attorney is coupled with an interest, in order to enable the Vendor to lawfully execute (in the Purchaser's name, place and stead) the deposit receipt(s) issued by Tarion from time to time in connection with the first \$20,000.00 of deposit monies so paid by the Purchaser in accordance with the provisions of this Agreement, and any excess condominium deposit insurance policy (and related documents) issued by any insurer or bonding company selected by the Vendor and providing prescribed security for the Purchaser's deposit monies pursuant to the Act (if, in fact, such excess deposit insurance is procured by the Vendor), as well as the new housing application form for a rebate of any portion of the single sales tax (if applicable), together with any other ancillary documents required to be executed in order to procure or receive any available rebate(s) of the single sales tax applicable in connection with this transaction, with there being no restriction or limitation on such power in order to accomplish the foregoing purpose, and said power of attorney and agency appointment shall not be considered or construed as a continuing power of attorney in accordance with the provisions of *the Substitute Decisions Act S.O. 1992, as amended*, but such power may nevertheless be exercised during any subsequent legal incapacity on the part of the Purchaser, and the Purchaser agrees not to take any action in the future which results in the termination of the foregoing power of attorney and agency appointment hereby granted to the Vendor.
- b) If any documents required to be executed and delivered by the Purchaser to the Vendor are, in fact, executed by a third party appointed as the attorney for the Purchaser, then any such power of attorney utilized by or on behalf of the Purchaser (or by any of the individuals comprising the Purchaser) must be expressly made (and duly executed and witnessed) in accordance with the provisions and requirements of *the Substitute Decisions Act S.O. 1992, as amended*, or alternatively in accordance with the provisions of *the Powers of Attorney Act R.S.O. 1990, as amended* (as the case may be), and not any power of attorney form drawn or made pursuant to the laws of any country, state or province other than Ontario, Canada, and a legible copy of such duly executed and properly witnessed power of attorney shall be delivered to the Vendor's solicitor on or before the interim occupancy closing and/or final closing of this transaction to which such documents relate, together with a statutory declaration sworn by the Purchaser's solicitor confirming either:
- i) that to the best of the Purchaser's solicitor's knowledge, information and belief, and after having made due inquiries of the donor, and relying on the donor's responses for the purposes of making this statutory declaration, the Purchaser's solicitor hereby confirms that:
- A. the power of attorney was properly executed and witnessed;
- B. the power of attorney was lawfully given, is still in full force and effect, and has not been revoked; and
- C. the attorney is the lawful party named in the power of attorney, and is acting within the scope of the authority granted to him or her under the power of attorney;
- or alternatively:
- ii) that to the best of the Purchaser's solicitor's knowledge, information and belief, and after having made due inquiries of the donee [because the donor has not responded to the telephone calls, telefax and/or e-mail inquiries of the Purchaser's solicitor] and relying on the donee's responses for the purposes of making this statutory declaration, the Purchaser's solicitor hereby confirms that:
- A. the power of attorney was properly executed and witnessed;
- B. the power of attorney was lawfully given, is still in full force and effect, and has not been revoked; and
- C. the attorney is the lawful party named in the power of attorney, and is acting within the scope of the authority granted under the power of attorney;
- c) Notwithstanding anything contained in this Agreement to the contrary, it is understood and agreed that where a third party has been appointed as the attorney for the Purchaser for the purposes of executing any documents contemplated by this Agreement, then any notices required or desired to be delivered to the Purchaser in accordance with the provisions of this Agreement may (but need not) be given to the said attorney, in lieu of the Purchaser or the Purchaser's solicitor (and shall be deemed to have been received by the Purchaser when so delivered to his or her attorney).
- d) Each of the individuals comprising the Purchaser, if more than one (hereinafter referred to as the "Donor") hereby constitutes and appoints the other (hereinafter referred to as the "Donee") to be and act as the Donor's lawful agent and attorney, in order to execute the Purchaser's acknowledgment of receipt of the disclosure statement (or any amended disclosure statement or corrigenda thereto, including receipt of any revised budget statement, if applicable), and/or for the purposes of receiving any or all notices required or desired to be delivered by the Vendor in accordance with the provisions of this Agreement, excluding all notices required to be given by the Vendor pursuant to the provisions of the Tarion Addendum [unless the Donee's address for service, fax number or e-mail address has been duly noted or identified on page 2 of the Tarion Addendum, or is subsequently provided pursuant to paragraph 14(c) of the Tarion Addendum]. The Donor hereby expressly confirms and agrees that this power of attorney may be exercised by the Donee during any subsequent legal incapacity of the Donor, and shall only be revoked upon the death of the Donor or upon the Donor delivering written notice of such revocation directly to the Vendor.

- e) Where the Purchaser is a corporation, or where the Purchaser is buying in trust for a corporation to be incorporated, the execution of this Agreement by the principal or principals of such corporation, or by the person named as the Purchaser in trust for a corporation to be incorporated, as the case may be, shall be deemed and construed to constitute the personal guarantee of such person or persons so signing with respect to the obligations of the Purchaser herein, and such person or persons shall also be correspondingly obliged to unconditionally guarantee any mortgage(s) required to be given by the Purchaser on Closing, in accordance with the provisions hereof.
- f) In the event that any of the documents delivered by the Vendor's solicitor to the Purchaser or Purchaser's solicitor for execution by the Purchaser are signed in foreign characters or lettering (which bears no relation to the Purchaser's name in English, as same appears in the document(s) being executed), then the Purchaser agrees to ensure that his or her signature is duly witnessed, and that a statement is added in English by such witness confirming that the witness saw the Purchaser sign the document after same had been read to the Purchaser and the Purchaser appeared to fully understand same.
- g) It is expressly acknowledged and agreed that the Vendor's provision, delivery and/or execution of any documents required or desired in connection with the interim occupancy closing and/or final closing of this purchase and sale transaction (including without limitation, the Vendor's provision and delivery of any notices and/or documents that may be required to be in writing), as well as the condominium corporation's execution and/or delivery of any status certificates prior to the Condominium's turnover meeting, may, at the Vendor's sole option, be made or manifested in an electronic format and/or executed by way of electronic signature of any such documents (undertaken by or through a computer program, or by any other electronic means) as expressly provided or contemplated by the *Electronic Commerce Act 2000, S.O. 2000, as amended*. For purposes of clarification, the terms "electronic signature" and "electronic" shall have the meanings respectively ascribed to such terms in the *Electronic Commerce Act 2000, S.O. 2000, as amended*.

TIME OF THE ESSENCE

- 5.02 Time shall strictly be of the essence of this Agreement in all respects, and any waiver, extension, abridgement or other modification of any time provisions shall not be effective unless made in writing and signed by the parties hereto or by their respective solicitors who are hereby expressly authorized in that regard.

NON-MERGER

- 5.03 The covenants and agreements of each of the parties hereto shall not merge on the Closing Date, but shall remain in full force and effect according to their respective terms, until all outstanding obligations of each of the parties hereto have been duly performed or fulfilled in accordance with the provisions of this Agreement, notwithstanding the conveyance of title to the Property to the Purchaser (or to any other party or parties pursuant to the Purchaser's direction re: title approved by the Vendor or the First Mortgagee as hereinbefore provided) and the payment of the Purchase Price to the Vendor or the Vendor's solicitors as hereinbefore provided. No further written assurances evidencing or confirming the non-merger of the covenants of either of the parties hereto shall be required or requested by or on behalf of either party hereto.

ENUREMENT

- 5.04 This Agreement shall enure to the benefit of, and be correspondingly binding upon, each of the parties hereto, and their respective heirs, estate trustees, successors and permitted assigns.

INTERPRETATION

- 5.05 a) The meanings of the words and phrases used in this Agreement shall have the meanings respectively ascribed to them in the Act, unless this Agreement or the context in which such words or phrases are used otherwise requires a different meaning for same.
- b) This Agreement shall be read with all changes in gender and/or number as may be required by the context. In the event that any provision of this Agreement shall be judicially determined to be illegal or unenforceable, then such provision shall be considered separate and severed from the remainder of this Agreement, and the remaining provisions of this Agreement shall accordingly remain in full force and effect, and shall continue to be binding on both parties hereto. In addition, in recognition of the fact that the Purchaser has the benefit of the statutory ten (10) day rescission period within which to have this Agreement thoroughly reviewed by the Purchaser's solicitor and to negotiate any desired revisions thereto or any new or additional provisions, it is expressly acknowledged and agreed by both parties hereto that notwithstanding any rule of law or rule of contract construction to the contrary, any ambiguity or uncertainty with respect to any provision(s) of this Agreement shall not be construed against the Vendor or the Purchaser by reason of the authorship of any of the provisions contained in this Agreement, and accordingly the "*contra proferentem*" principle of contract construction shall be inapplicable to the interpretation of this Agreement or any provision hereof.
- c) Any headings used throughout this Agreement are for ease of reference only, and shall not be deemed or construed to form a part of this Agreement.
- d) It is understood and agreed by the parties hereto that **the use of boldface print, capitalized terms or lettering, underlining and/or italics throughout this Agreement (including the bolding of certain key words or phrases within various paragraphs hereof)** are for ease of reference/identification purposes only, and/or to bring certain provisions to the specific attention of the Purchaser and his or her solicitor, but under no circumstances shall the foregoing print/drafting style be deemed or construed as any warranty or representation that the provisions so bolded, capitalized, underlined or italicized (as the case may be) are more important than any other provisions contained herein, or that those provisions which are not so bolded, capitalized, underlined or italicized are not important or significant provisions of this Agreement.

DEFAULT

- 5.06 a) **In the event that the Purchaser is in default with respect to any of the Purchaser's obligations contained in this Agreement (or in the Occupancy Agreement) at any time on or before the final closing of this transaction, and fails to remedy such default forthwith if such default is a monetary default and/or pertains to the execution and delivery of documentation required to be given to the Vendor on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), or within five (5) days of the Purchaser being so notified in writing with respect to any other non-monetary default,** then the Vendor, in addition to (and without prejudice to) any other rights or remedies available to the Vendor (at law or in equity) may, at its sole option, unilaterally suspend all of the Purchaser's rights, benefits and privileges contained herein (including without limitation, the right to make colour and finish selections with respect to the Unit as hereinbefore provided or contemplated), and/or unilaterally declare this Agreement and the Occupancy Agreement to be terminated and of no further force or effect, whereupon all deposit monies theretofore paid, together with all monies paid for any extras, upgrades and/or changes to the Property, shall be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at law or in equity. In the event of the termination of this Agreement and/or the Occupancy Agreement by reason of the Purchaser's default as aforesaid, or by reason of the Purchaser's failure to procure and/or deliver evidence of the Purchaser having obtained mortgage approval in connection with any required financing (to enable the Purchaser to complete this transaction on an all-cash basis to the Vendor as hereinbefore provided) as contemplated in Sections 2.02 and 2.03 hereof, or if this purchase and sale transaction is terminated for any other reason as a consequence of (or emanating from) the Purchaser's default or breach of contract, then the Purchaser shall be obliged to forthwith vacate the Property (or cause same to be forthwith vacated) if same has theretofore been occupied (and shall leave the Property in a clean condition, without any physical or cosmetic damages thereto, and clear of all garbage, debris and any furnishings and/or belongings of the Purchaser), and shall execute and deliver such releases and any other documents or assurances as the Vendor may desire or require, in order to facilitate the Vendor's re-sale of the Property in an effort to mitigate the damages suffered or incurred by it as a consequence of the Purchaser's default, and to confirm that the Purchaser does not have (and cannot, by virtue of the provisions set out in Section 4.02(d) hereof, be deemed or construed to have) any legal, equitable or proprietary interest whatsoever in the Property and/or the Lands (or any portion thereof) prior to the completion of this transaction and the payment of the entire Purchase Price to the Vendor or the Vendor's solicitors as hereinbefore provided. The Purchaser hereby irrevocably appoints the Vendor to be the Purchaser's lawful attorney and agent, and which power of attorney is coupled with an interest, in order to enable the Vendor to lawfully execute the aforementioned releases, documents and assurances in the Purchaser's name, place and stead, in the event that the Purchaser fails or refuses to execute same when requested to do so by the Vendor, with there being no restriction or limitation on such power in order to accomplish the foregoing purpose, and said power of attorney and agency appointment shall not be considered or construed as a continuing power of attorney in accordance with the provisions of the *Substitute Decisions Act S.O. 1992, as amended*, but such power may nevertheless be exercised during any subsequent legal incapacity

on the part of the Purchaser, and the Purchaser agrees not to take any action in the future which results in the termination of the foregoing power of attorney and agency appointment hereby granted to the Vendor.

b) The Purchaser acknowledges and agrees that **notwithstanding any other terms and provisions contained in this Agreement to the contrary**, in the event that:

- i) **one or more material amendments are made to the Condominium Documents** (or any portion thereof), the Property (or any portion thereof), and/or to the Condominium being developed on the Lands, **then the Purchaser's only remedy and recourse shall be limited and restricted to the Purchaser's statutory right to rescind this Agreement** (and obtain a refund of all deposit monies paid hereunder, together with all interest earned or accrued thereon at the rate prescribed by the Act) pursuant to the provisions of Section 73(2) or Section 74(6) of the Act, and the Purchaser shall not make or pursue any claim (nor seek any remedy or compensation whatsoever) for any or all of such material amendments, and under no circumstances shall the Purchaser be entitled to claim specific performance and/or damages (either legal or equitable) against the Vendor or the Agent as a result thereof, notwithstanding any rule of law or equitable principle to the contrary, nor shall the Purchaser be entitled to claim any abatement or set-off against the Purchase Price therefor, nor initiate or pursue any other legal or equitable claim or relief whatsoever in connection therewith; and/or
- ii) **one or more non-material changes are made to the Condominium Documents** (or any portion thereof), the Property (or any portion thereof), and/or to the Condominium being developed on the Lands, **then the Purchaser shall simply accept any and all of such minor or non-material changes without any objection thereto whatsoever**, and shall proceed to complete this transaction as and when scheduled in accordance with the provisions of this Agreement, and shall not make or pursue any claim (nor seek any remedy or compensation whatsoever) for any or all of such minor or non-material changes, and under no circumstances shall the Purchaser be entitled to claim specific performance and/or damages (either legal or equitable) against the Vendor or the Agent as a result thereof, notwithstanding any rule of law or equitable principle to the contrary, nor shall the Purchaser be entitled to claim any abatement or set-off against the Purchase Price therefor, nor initiate or pursue any other legal or equitable claim or relief whatsoever in connection therewith;

and the foregoing provisions hereof may be pleaded as an estoppel and bar against the Purchaser in any action or proceeding brought by the Purchaser to assert any such claim or cause of action against the Vendor (whether for damages or other compensation, and/or specific performance, or otherwise).

c) The Purchaser acknowledges and agrees that notwithstanding any rights which he or she might otherwise have at law or in equity arising out of this Agreement, the Purchaser shall not assert any of such rights, nor have any claim or cause of action whatsoever as a result of any matter or thing arising under or in connection with this Agreement (whether based or founded in contract law, tort law or in equity, and whether for innocent misrepresentation, negligent misrepresentation, breach of contract, breach of fiduciary duty, breach of constructive trust or otherwise), against any person, firm, corporation or other legal entity, other than the person, firm, corporation or legal entity specifically named or defined as the Vendor herein, even though the Vendor may be (or may ultimately be found or adjudged to be) a nominee or agent of another person, firm, corporation or other legal entity, or a trustee for and on behalf of another person, firm, corporation or other legal entity, and this acknowledgment and agreement may be pleaded as an estoppel and bar against the Purchaser in any action, suit, application or proceeding brought by or on behalf of the Purchaser to assert any of such rights, claims or causes of action against any such third parties.

d) Notwithstanding anything hereinbefore provided to the contrary, it is understood and agreed by the parties hereto that **in the event the Purchaser is in default** with respect to any of his or her obligations under this Agreement, then in addition to (and without prejudice to) any other rights or remedies which the Vendor may pursue as a result of such default, **the Vendor expressly reserves the right to accelerate the payment due date(s) of the deposits agreed to be paid by the Purchaser pursuant to paragraph 1(a) (ii), (iii) and (iv) on page 1 of this Agreement**, by delivering a written demand upon the Purchaser or the Purchaser's solicitor to pay the balance of said deposits, and same must be paid within forty-eight (48) hours of the Vendor's demand therefor, failing which the Purchaser shall be deemed to have committed a fundamental breach of this Agreement, entitling the Vendor to unilaterally declare this Agreement to be terminated and of no further force or effect, whereupon all deposit monies theretofore paid (together with all monies paid for any Extras or changes to the Property) shall be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at law or in equity.

e) In the event the Purchaser is in default with respect to any of his or her obligations under this Agreement, and thereafter rectifies such default to the Vendor's satisfaction prior to the delivery by the Vendor or the Vendor's solicitor of formal written notice of the termination of this Agreement as a consequence of such default, then the Purchaser agrees to fully reimburse the Vendor on closing (by way of an appropriate charge to the Purchaser or credit to the Vendor in the statement of adjustments prepared as at the final closing of this transaction) for all legal fees and disbursements incurred by the Vendor and correspondingly charged by the Vendor's solicitor with respect to all correspondence and dealings with the Purchaser and/or the Purchaser's solicitor in connection with such default and/or the rectification thereof, and being a minimum of **\$950.00 plus HST** on account of legal fees.

AQUABELLA AT BAYSIDE TORONTO

SCHEDULE AA - SITE SPECIFIC TERMS & PROVISIONS

ARTICLE 1 - DEFINITIONS, EXPLANATIONS, ADJUSTMENTS AND ACCEPTANCE OF OFFER

DEFINITIONS

The capitalized terms used on the first page of the agreement of purchase and sale to which this schedule is annexed, and in all schedules annexed thereto (hereinafter collectively referred to as this or the "Agreement"), shall have the meanings respectively ascribed to them in Section 1.01 of Schedule "A", or as otherwise defined elsewhere in this schedule (or in any of the other schedules annexed thereto).

- 1.01 (n) the "Lands" shall mean the L-shaped parcel of land situate in the City of Toronto, in the Province of Ontario, fronting on the north and west sides of Merchants Wharf, and on the south side of a private roadway running in an east-west, then north-south, and then east-west direction known as Edgewater Drive, situate south of Queens Quay East and north of the waters' edge boardwalk (also known as Waters' Edge Promenade) that runs along the north side of Lake Ontario and the Toronto Harbour, with the address for the Condominium being developed thereon to be municipally known as **118 Merchants Wharf, Toronto** (or such other address as the City of Toronto may hereafter designate), and currently consisting of all of Block 8 on Registered Plan 66M-2514, comprising all of PIN 21384-0184(L1), and part of Lots 24 and 25 on Registered Plan 694-E, comprising part of PIN 21384-0186(L1), more particularly designated as **Parts 1, 2, 3 and 4 on Reference Plan 66R-28781**, registered in the Land Titles Division of the Toronto Registry Office (No. 66), and:
- i) having an appurtenant easement for pedestrian access and egress purposes, over, along, across and upon the waters' edge boardwalk (also known as Waters' Edge Promenade) extending from the westerly perimeter of the Parliament Street Slip to the easterly perimeter of Sherbourne Common;
 - ii) being subject to a servient easement in favour of the City of Toronto and the general public, for pedestrian and vehicular access and egress purposes, over that portion of the common elements of this Condominium comprising part of Edgewater Drive and more particularly designated as **Parts 2 and 3 on Reference Plan 66R-28781**, traversing along the northerly perimeter of this Condominium, and extending from the north-east corner of the municipal park that is situate to the west of this Condominium known as Aitken Place Park, and continuing easterly to the north-south extension of the public roadway known as Merchants Wharf (with said portion of Edgewater Drive, inclusive of all public sidewalks and street landscaping elements to be developed in conjunction therewith, along either side of same, being hereinafter collectively referred to as the "Shared Roadway"); and
 - iii) being subject to a servient easement in favour of the City of Toronto and the general public, for pedestrian access and egress purposes, over that portion of the common elements of this Condominium more particularly designated as **Part 1 on Reference Plan 66R-28781**, and comprising a public pedestrian walkway situate along the westerly perimeter of this Condominium and known as Kanadario Lane (hereinafter referred to as the "Public Walkway");
- all as more particularly outlined or illustrated on the site plan sketch of this Condominium annexed as Schedule "D" to this Agreement (and the Lands are also sometimes hereinafter collectively referred to as the "Real Property"); upon which the Vendor is developing an integrated mixed-use condominium/freehold project (hereinafter collectively referred to as the "Project" or the "Aquabella Project") consisting of the following three (3) distinct components (hereinafter individually referred to as a "Component" and collectively referred to as the "Components"), namely:
- A. this Condominium, being a 13 storey residential condominium comprising approximately 173 dwelling units [together with various parking units, locker units, hobby/storage room units, shared service units and other ancillary units], having its main entrance lobby (with an on-site concierge station) located at the south/east corner of this Condominium facing or fronting onto Merchants Wharf, together with a separate smaller lobby (served by a remote electronic virtual concierge only) located at the north/west corner of this Condominium facing or fronting onto Edgewater Drive, and with the underground parking garage that serves this Condominium being accessible from the south side of Edgewater Drive, and with the Condominium presently intended to comprise a **total finished area above-grade of approximately 27,823 square meters** (with the lands and premises encompassing this Condominium being municipally known as **118 Merchants Wharf, Toronto**, or such other address as the City of Toronto may hereafter designate, and hereinafter collectively referred to as the "Condominium Lands");
 - B. a freehold two-storey daycare centre, accessible at grade (hereinafter referred to as the "Daycare Centre"), that will be owned by the City of Toronto (hereinafter referred to as the "Daycare Centre Owner"), and specifically leased to, and operated by, a licensed daycare centre operator approved by the City of Toronto (hereinafter referred to as the "Daycare Centre Operator"), available to care for children from the general public, and which will accommodate approximately 72 children (including infants, toddlers, pre-schoolers and school-aged children), and with the Daycare Centre including a separate garbage storage room and an elevator that will service the Daycare Centre exclusively, along with a designated lay-by or drop-off area situate along the west side of Edgewater Drive, together with a contiguous outdoor playground area situate on level 2 of the Daycare Centre (comprising approximately 364 square meters in total area) and intended to be used exclusively for the children attending the Daycare Centre, together with 3 designated parking units situate on level A of the underground parking garage within this Condominium which are located most closely proximate to the most direct access to the Daycare Centre, and which parking units will be required to pay only nominal common element expenses (hereinafter collectively referred to as the "Daycare Centre Parking Units"), and which will be conveyed by the Declarant to the Daycare Centre Owner for nil consideration, and with the Daycare Centre Parking Units to be accessed and used exclusively by the Daycare Centre Owner and the Daycare Centre Operator and its authorized employees and licensees during the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, both inclusive (hereinafter collectively referred to as the "Daycare Centre Hours"), and to be utilized by the condominium corporation (hereinafter referred to as the "Condominium Corporation" or the "Corporation") when the Daycare Centre is not in operation, namely from 7:00 p.m. to 7:00 a.m. weekdays and all throughout every weekend and all statutory holidays (hereinafter collectively referred to as the "Condominium's Visitor Hours") as additional visitor parking to accommodate any visitors to this Condominium, pursuant to a license granted by the Daycare Centre Owner to the Condominium Corporation for nil consideration shortly after the registration of this Condominium [and which license shall endure for as long as this Condominium is in existence, with the proviso that the Daycare Centre shall only be used for the purposes of a licensed daycare centre or nursery school, and for no other use or purpose unless same has been expressly consented to by the Condominium Corporation, failing which the aforementioned parking license in favour of the Condominium Corporation shall thereupon be automatically extended to envelop or encompass all of the Daycare Centre Hours, in addition to the Condominium's Visitor Hours, and with the Daycare Centre Parking Units to be clearly designated for such use by means of a clearly visible sign that is posted or affixed to each of said parking units], and with the Daycare Centre presently intended to comprise a **total finished area above-grade of approximately 784 square meters** (with the lands and premises encompassing the Daycare Centre being municipally known as **75 Edgewater Drive**, or such other address as the City of Toronto may hereafter designate, and hereinafter collectively referred to as the "Daycare Centre Lands"); and
 - C. a freehold commercial/retail component comprising ground floor rentable retail space, accessible at grade, and located beneath (and around portions of the perimeter of) this Condominium (hereinafter collectively referred to as the "Retail Component"), and to be accessible by the general public from and along Merchants Wharf, with the commercial/retail loading area being accessible from the south side of Edgewater Drive, and correspondingly utilized as a shared loading area that will also be used by the Condominium and the Daycare Centre, and with the Retail Component presently intended to comprise a **total finished area above-grade of approximately 938 square meters** (with the lands and premises encompassing the Retail Component being municipally known as **100 Merchants Wharf, Toronto**, or such other address as the City of Toronto may hereafter designate, and hereinafter collectively referred to as the "Retail Lands"), and with the owner of the Retail Lands being hereinafter referred to as the "Retail Component Owner");

on the express understanding and agreement that:

1. the Lands (or any portion thereof) may also be subject to (and be encumbered by) those easements, encroachments, restrictions, notices and/or agreements more particularly described in Section 4.02(a) hereof [and in Sections 4.01 and 4.02(a) of Schedule "A"];
2. the Public Walkway shall comprise part of the non-exclusive use common elements of this Condominium, and shall be maintained and repaired exclusively by this Condominium, at its sole cost and expense, notwithstanding the fact that same shall be used, enjoyed and accessible by the general public;
3. the Shared Roadway shall ultimately be designated as part of the non-exclusive use common elements of this Condominium, but shall nevertheless be used and accessible by this Condominium, the Daycare Centre Owner and the Retail Component Owner (hereinafter individually referred to as a "Contributor" and collectively referred to as the "Contributors"), and by their respective residents, tenants, occupants, invitees and licensees from time to time, and the Shared Roadway shall also be used and accessible by other neighbouring landowners and the general public;
4. the Shared Roadway is intended to connect to the municipal roadway known as Merchants Wharf to the east of this Condominium, and to ultimately link or connect to the westerly portion of Edgewater Drive situate to the west of this Condominium and comprising Part 10 on Reference Plan 66R-28781 (hereinafter referred to as the "Westerly Edgewater Section"), and with the Westerly Edgewater Section ultimately comprising part of the non-exclusive use common elements of the Aquavista Condominium as hereinafter defined, and the City of Toronto accordingly requires that easements for pedestrian and vehicular access and egress over the Shared Roadway be granted or created sometime hereafter to or in favour of the following landowners (hereinafter collectively referred to as the "Neighbouring Owners"), namely:
 - a) the residential high-rise condominium comprising approximately 227 dwelling units, being developed on those lands and premises comprising all or part of Block 3 on Registered Plan 66M-2514, more particularly designated as Part 1 on Reference Plan 66R-28259 (hereinafter referred to as the "Aquavista Condominium");
 - b) the owner of the freehold commercial retail component being developed at grade along the perimeter of the Aquavista Condominium, on those lands and premises comprising all or part of Block 3 on Registered Plan 66M-2514, more particularly designated as Part 1 on Reference Plan 66R-28259 (hereinafter referred to as the "Aquavista Retail Component");
 - c) the owner of the 9 storey freehold rental housing project comprising approximately 80 rental apartment suites, to be owned by the City of Toronto and presently intended to be leased to (and operated by) Toronto Artscape Inc., a not-for-profit corporation created specifically for the creative and artistic community, being developed on those lands and premises comprising all or part of Block 3 on Registered Plan 66M-2514, more particularly designated as Parts 2 and 3 on Reference Plan 66R-28259 (hereinafter referred to as the "Artscape Project");
 - d) the owner of the freehold commercial parking garage containing approximately 58 parking spaces on level A and approximately 10 parking spaces on level B, within the underground parking garage serving both the Aquavista Condominium and the Artscape Project, being developed on those lands and premises comprising all or part of Block 3 on Registered Plan 66M-2514, more particularly designated as Part 1 on Reference Plan 66R-28259 (hereinafter referred to as the "Aquavista Commercial Parking Garage");
 - e) the owner of the lands comprising Part 9 on Reference Plan 66R-28781 (hereinafter referred to as the "C-1 Lands"), upon which it is presently intended that a freehold office building (ranging anywhere from 9 to 12 storeys in height) will be developed thereon sometime hereafter, or alternatively a residential high-rise building (which may either be a freehold rental apartment building or a residential condominium) being up to 15 storeys in height, or possibly a mixed-use building with a combination of office and residential premises ranging anywhere from 9 to 15 storeys in height (and with such future development of the C-1 Lands being hereinafter referred to as the "C-1 Project");
 - f) the owner of the lands comprising Part 5 on Reference Plan 66R-28781 (hereinafter referred to as the "C-2 Lands"), upon which it is presently intended that a freehold office building (ranging anywhere from 9 to 12 storeys in height) will be developed thereon sometime hereafter, or alternatively a residential high-rise building (which may either be a freehold rental apartment building or a residential condominium) being up to 15 storeys in height, or possibly a mixed-use building with a combination of office and residential premises ranging anywhere from 9 to 15 storeys in height (and with such future development of the C-2 Lands being hereinafter referred to as the "C-2 Project");
 - g) the owner of the lands comprising Part 7 on Reference Plan 66R-28781 (hereinafter referred to as the "R-6 Lands"), upon which it is presently intended that a high-rise freehold rental housing project comprising approximately 265 dwelling units will be developed thereon sometime hereafter, which is presently intended to be owned by the City of Toronto and ultimately leased to (and operated by) a not-for-profit community housing operator or provider approved by the City (and with such future development of the R-6 Lands being hereinafter referred to as the "Non-Profit Housing Project" or the "R-6 Project");
5. the cost of insuring, illuminating, maintaining and repairing the Shared Roadway (hereinafter collectively referred to as the "Shared Roadway Costs") shall be shared by and amongst each of the three Contributors, based on the percentages reflecting their respective or relative total finished areas above-grade, on the express understanding and agreement that the Shared Roadway Costs shall be borne and paid for by (and be collected from) the three Contributors exclusively, notwithstanding that the Shared Roadway may be traversed and utilized by the Neighbouring Owners and others (including the general public) sometime in the future, unless and until any of the Neighbouring Owners has formally agreed to participate in a cost-sharing arrangement with all of the Contributors with respect to the Shared Roadway, based on the same formula for sharing the Shared Roadway Costs as outlined above [in turn, each of the three Contributors shall be required to contribute to the shared roadway costs that are attributable to the Westerly Edgewater Section, pursuant to the provisions of an easement and cost-sharing agreement pertaining to same, and entered into with the Aquavista Condominium, the owner of the Aquavista Retail Component, the owner of the Artscape Project and the owner of the Aquavista Commercial Parking Garage, as a prerequisite to their ability and entitlement to use, and drive over, the Westerly Edgewater Section], and
6. in the event that the City of Toronto hereafter decides that it does not want or need the Daycare Centre to be developed and constructed on the Daycare Centre Lands, then it is understood and agreed that in lieu of the Daycare Centre, the Vendor will expand or increase the size of this Condominium [by creating up to 13 additional dwelling units in the aggregate, with up to 5 additional dwelling units on level 1 and up to 8 additional dwelling units on level 2 of this Condominium, plus additional common element areas on levels 1 and 2 of this Condominium, within the Daycare Centre Lands] or alternatively expand or increase the size of the Retail Component (by adding or creating more ground floor rentable retail space) within the Daycare Centre Lands, or implement a combination of both, and if such is the case then the provisions hereinafter set forth pertaining to the Two-Way Shared Facilities, the Three-Way Shared Facilities and the Shared Roadway (as such terms are hereinafter respectively defined) shall be revised to reflect the foregoing (and that there is no Daycare Centre Owner as a contributor to any of the cost-sharing arrangements hereinafter described), and accordingly the development of any additional dwelling units (and/or common element areas) within this Condominium and/or the creation of additional rentable retail space, upon or within the Daycare Centre Lands (including any revisions to the provisions governing or pertaining to the Two-Way Shared Facilities, the Three-Way Shared Facilities and the Shared Roadway, to reflect the fact that the Daycare Centre will no longer be developed) shall not be considered or construed to constitute a material change to the disclosure statement of this Condominium under any circumstances whatsoever, and shall not give rise to any claim or right to compensation (nor any other relief or remedy whatsoever) in favour of the Purchaser;
- w) the term "repair" when used or referred to in this Agreement, or in the declaration of this Condominium or in any shared facilities agreement, with respect to any item, matter or component, shall expressly include the obligation to repair and replace the item, matter or component (as the case may be) after damage or failure, but shall not include the obligation to repair or replace any improvements made to the item, matter or component unless the Act, this Agreement, the declaration or any shared facilities agreement provides otherwise;
- x) the term "Special Landscaped Units" shall mean the following dwelling units, each of which is hereinafter referred to as a "Special Landscaped Unit" having an outdoor terrace within which the Special Terrace Landscaping (as hereinafter defined) will be installed and maintained as part of a unified planting strategy for this Condominium, namely **dwelling units 5, 6 and 11 on level 8; dwelling units 4, 5, 7 and 8 on level 9; dwelling units 3, 6 and 7 on level 10; dwelling units 2, 3, 5 and 6 on level 11; and dwelling units 1, 2 and 3 on level 12;**
- y) the term "total built area" when used or referred to in this Agreement, or in the declaration of this Condominium, or in any shared facilities agreement, in the context of sharing the costs for illuminating, insuring, operating, maintaining and/or repairing the Westerly Edgewater Section (which comprises part of the common elements of the Aquavista Condominium), and specifically with respect to the relative total built area of each of the parties or entities contributing to the payment of said costs, shall mean or include all above-ground finished areas (measured between the exterior face of the exterior

walls of the building or structure) and all above-grade and below-grade recreational amenity areas and lobbies, and shall expressly include all below-grade lockers and parking areas (but shall nevertheless exclude all outdoor terraces and mechanical areas above and below-grade), as conclusively determined by the Vendor's architect as at the date of registration of this Condominium;

- z) the term "Total finished area above-grade" when used or referred to in this Agreement, or in the declaration of this Condominium, or in any shared facilities agreement, in the context of sharing the costs for illuminating, insuring, operating, maintaining and/or repairing the Shared Roadway (which comprises part of the common elements of this Condominium), and specifically with respect to the relative total finished area above-grade of each of the parties or entities contributing to the payment of said costs, shall expressly include all above-ground finished areas (measured between the exterior face of the exterior walls of the building or structure, and inclusive of all stairwells, elevators, mechanical areas and recreational amenity spaces or areas, but exclusive of all below-grade lockers, parking areas, mechanical areas and/or amenity areas), as conclusively determined by the Vendor's architect as at the date of registration of this Condominium, and accordingly any figures in this Agreement which describe the intended or projected total finished area above-grade of any portion of the Project (and any resulting percentages or proportions of any shared facilities' costs) are subject to adjustment hereafter depending on the final total finished area above-grade of each of the components of the Project, as conclusively determined by the Vendor's architect as at the date of registration of this Condominium; and
- aa) the term "Waterfront Toronto" shall mean Toronto Waterfront Revitalization Corporation.

ADJUSTMENTS TO THE PURCHASE PRICE

- 1.04 (a) v). Without limiting the generality of the provisions outlined in Section 1.04 (a)(v) of Schedule "A" to this Agreement, the parties hereto hereby acknowledge and agree to the following, namely that:
- A. As at the date of the launch of the Vendor's marketing and sales campaign for this Condominium, namely **September 15th, 2016**, the outstanding development charges imposed by the City of Toronto in connection with the development of this Condominium amount to \$16,599.00 for each dwelling unit comprising a one bedroom unit or a one bedroom plus den unit, and \$23,864.00 for each dwelling unit having two or more bedrooms, and \$200.99 per square meter of floor area for each commercial/retail unit or premises, and the outstanding education development charge imposed by the Toronto Catholic District School Board amounts to \$1,493.00 per dwelling unit and \$1.07 per square foot of non-residential gross floor area, and there are currently no outstanding development charges nor any outstanding education development charges imposed by the Toronto District School Board;
- B. As soon as the superstructure building permit for this Condominium has been issued by the building department of the City of Toronto, and the applicable development charges and/or education development charges so payable by the Vendor in connection with the development of this Condominium have been fixed and crystallized by the issuance of said permit, any increase in the aforementioned development charges so imposed by the City of Toronto and/or any increase in the aforementioned education development charges so imposed by the Toronto Catholic District School Board and/or the Toronto District School Board, over and above the foregoing stipulated amounts or figures, shall be charged to the Purchaser in the statement of adjustments on the Closing Date, plus any H.S.T. exigible in connection therewith, and shall accordingly be paid by the Purchaser on the Closing of this transaction [provided, however, there shall be no credit or adjustment whatsoever in favour of the Purchaser in the event of any decrease in the aforementioned development charges and/or education development charges]; and
- C. In the event that the City of Toronto (or any governmental or quasi-governmental authority or agency, or any other public or private authority or agency) has established (or hereafter establishes) a program to encourage the development and construction of energy efficient or environmentally-friendly buildings or structures which exceed minimum performance or threshold standards, in terms of energy efficiency, renewable energy consumption characteristics, environmentally-friendly attributes, or other similar or related factors, then regardless of whether the incentive payment is characterized as a rebate of development charges or otherwise, the Vendor shall be entitled to keep and retain all rebates, refunds and/or performance incentives which may be granted or awarded by the City of Toronto or any such agency or authority, either before or after the final closing of this transaction, without any duty or obligation whatsoever on the part of the Vendor to account for same, or to refund any portion of same, to or with the Purchaser, and without any requirement or obligation to re-adjust any item or component in the final statement of adjustments, either before or after the final closing of this transaction, as a consequence thereof. Without limiting the generality of the foregoing, in the event that this Condominium, when constructed and completed, satisfies all applicable criteria imposed by (or pursuant to) the Toronto Green Standard Program, such that this Condominium qualifies for development charge credits, then it is expressly understood and agreed that the Vendor shall be exclusively entitled to receive and retain the benefit of all such credits, without having to provide the Purchaser with any credit or compensation, nor any abatement in the purchase price [nor any reduction in the amount of any development charges (or the amount of any increase in the development charges) ultimately charged to the Purchaser in the statement of adjustments at final closing] whatsoever in connection therewith.
- 1.04(F) Notwithstanding any other provision contained in this Agreement to the contrary, in the event that any new tax or increased tax, or comparable charge, is levied or exacted at any time hereafter by any municipal, provincial, federal or other governmental authority or agency in connection with this Agreement and/or the purchase and sale transaction arising herefrom, such as (but not limited to) a new property transfer tax or otherwise (hereinafter collectively referred to as the "New Tax"), then irrespective of whether the New Tax is (by virtue of the legislation authorizing and/or charging same) primarily exigible against (or payable by) the Vendor and/or the Purchaser, it is understood and agreed that as between the parties hereto, the New Tax shall nevertheless be payable by the Purchaser alone, and if the New Tax is, in fact, primarily exigible against (or payable by) the Vendor, then notwithstanding same the Vendor shall nevertheless be entitled to be directly reimbursed by the Purchaser in full for same, by way of a corresponding charge to the Purchaser in the statement of adjustments on the final closing of this transaction.

CHANGES TO CLOSING PACKAGE(S)

- 2.07.1 In the event that the Purchaser or the Purchaser's solicitor makes one or more unilateral changes to any of the interim-occupancy or final closing documents prepared by the Vendor's solicitor, and provided to the Purchaser's solicitor for the Purchaser's execution (or posted on the eClose website for downloading by the Purchaser's solicitor, for ultimate execution by the Purchaser), but fails to inform the Vendor's solicitor regarding any of the foregoing changes prior to the scheduled Firm Occupancy Date or final closing date (as the case may be), then if the Vendor's solicitor is required to change any of those documents back to their original form and content because the changes so made by the Purchaser's solicitor were not acceptable to the Vendor or the Vendor's solicitor, then the Purchaser shall be obliged to reimburse the Vendor, on either the Firm Occupancy Date or on the final closing date (as the case may be), for the Vendor's processing costs [inclusive of any legal fees and ancillary disbursements which may be incurred by the Vendor and/or charged by the Vendor's solicitors in order to revise the interim closing package or final closing package (or any portion thereof) and/or to reproduce and resend the interim closing package or final closing package (or any portion thereof), as the case may be, to the Purchaser or the Purchaser's solicitor], and with such processing fees of the Vendor (inclusive of the Vendor's legal fees and ancillary disbursements charged in connection therewith) to be \$750.00 plus HST, for each interim or final closing package (or any portion thereof) so revised, reproduced or re-sent.

ARTICLE II - PURCHASER'S OBLIGATIONS, RIGHTS AND OTHER MATTERS

METERING OF SERVICES / HEATING & COOLING SYSTEM

- 2.10 (a) Water, electricity and natural gas services to the non-exclusive use common elements will be bulk-metered, and the cost of same shall correspondingly comprise part of the common expenses.
- (b) Each of the dwelling units in this Condominium shall be:

- i) serviced by a central plant fluid cooler situated on the roof of the Condominium, together with a water-cooled condenser unit on each floor or level, and each dwelling unit shall be equipped with an in-suite VRF - variable refrigerant flow system (comprising a horizontal and/or vertical fan coil heating and cooling/air-conditioning system, utilizing a separate metering device appurtenant to the heating/cooling system, along with condensing units that are wired and/or piped into the VRF central controller) which will provide year-round heating and cooling services to each dwelling unit, together with an individual heat recovery ventilator that is intended to provide fresh air and heat recovery to the suite;
 - ii) separately sub-metered (and correspondingly separately invoiced) for electricity service provided to the dwelling unit and its appurtenant exclusive use common elements, pursuant to a check meter, sub-meter or consumption meter appurtenant to the dwelling unit that is read by Toronto Hydro-Electric Service Limited, or a company associated or affiliated therewith (hereinafter referred to as "Toronto Hydro"), and accordingly the dwelling unit's consumption of electricity (including the electricity consumption relating to any exclusive use common element area appurtenant thereto) shall not comprise part of the common expenses, but rather shall be borne and paid for solely by the dwelling unit owner;
 - iii) separately sub-metered (and correspondingly separately invoiced) for the domestic cold water service provided to the dwelling unit and its appurtenant exclusive use common elements, pursuant to a cold water check meter, sub-meter or consumption meter appurtenant to the dwelling unit that is read by the Utility Monitor (as hereinafter defined), so that the cost of the consumption of cold water by the dwelling unit (and any exclusive use common element area appurtenant thereto) shall not comprise part of the common expenses, but rather shall be borne and paid for solely by the dwelling unit owner;
 - iv) separately sub-metered (and correspondingly separately invoiced) for the domestic hot water service provided to the dwelling unit and its appurtenant exclusive use common elements, pursuant to a hot water check meter, sub-meter or consumption meter appurtenant to the dwelling unit that is read by the Utility Monitor (as hereinafter defined), so that the cost of the consumption of hot water by the dwelling unit (and any exclusive use common element area appurtenant thereto) shall not comprise part of the common expenses, but rather shall be borne and paid for solely by the dwelling unit owner; and
 - v) separately sub-metered (and correspondingly separately invoiced) for heating services and for cooling services respectively within each dwelling unit and its appurtenant exclusive use common elements, pursuant to the metering device comprising part of the in-suite VRF - variable refrigerant flow system (so installed by the Vendor as an appurtenance to the dwelling unit's heating and cooling system) that is read by the Utility Monitor (as hereinafter defined), so that the cost of heating and cooling each dwelling unit shall not comprise part of the common expenses, but rather shall be borne and paid for solely by each dwelling unit owner.
- (c) In addition, it is understood and agreed that:
- i) each of the Special Landscaped Units shall, in addition to the aforementioned check meters appurtenant to each dwelling unit, be separately sub-metered (and correspondingly separately invoiced) for the natural gas consumed by same (and by any exclusive use common element area appurtenant thereto), pursuant to a check meter for gas appurtenant to each Special Landscaped Unit that is read by the Utility Monitor (as hereinafter defined), so that the cost of each Special Landscaped Unit's natural gas consumption shall not comprise part of the common expenses, but rather shall be borne and paid for solely by the owner of the Special Landscaped Unit; and
 - ii) if and when any electrical parking units are created by the Vendor within this Condominium (hereinafter individually referred to as an "Electrical Parking Unit" and collectively referred to as the "Electrical Parking Units"), then same will be completed with a standard electrical outlet, and a separate electricity check meter will also be installed as an appurtenance thereto, in order to measure and confirm the cost of the electricity consumed or utilized by any electric vehicle parked from time to time within any such Electrical Parking Unit, on a periodic basis, and the owner of any Electrical Parking Unit shall accordingly be responsible for paying for the cost of such electricity consumption, in addition to the common expenses attributable to such owner's Electrical Parking Unit.
- (d) Each owner of a dwelling unit shall be responsible for the cost of maintaining and repairing the complete VRF system (and the in-suite heat recovery ventilator) installed within such owner's dwelling unit, including the fan coil system connected to same (and all fans, coils, valves, controls, pumps, etc., and all equipment appurtenant thereto) comprising all or part of the heating/cooling system servicing his or her dwelling unit (whether same is installed or located within or beyond the boundaries of the dwelling unit), provided however that all maintenance and repair work undertaken in connection therewith shall be arranged by the condominium corporation, and shall be carried out exclusively by the condominium corporation's authorized contractors, agents and/or representatives, but shall nevertheless be paid for by the affected unit owner immediately upon the condominium corporation's presentation of an invoice for same. Each owner of a dwelling unit shall accordingly notify the condominium corporation or this Condominium's property manager regarding any needed maintenance and/or repair work to the VRF system (and to the heat recovery ventilator) servicing such owner's dwelling unit (including the fan coil system comprising part of same, and any equipment appurtenant thereto), and shall allow the condominium corporation's authorized contractors, agents and/or representatives access thereto at all reasonable times in order to carry out said work.
- (e) The condominium corporation created upon the registration of this Condominium (sometimes hereinafter referred to as this or the "Condominium Corporation" or the "Corporation") will retain the services of:
- i) a third party utility contractor/monitor (hereinafter and hereinafter referred to as the "Utility Monitor") [and who initially shall be Provident Energy Management Inc., a company that is related to or affiliated with the Vendor (hereinafter referred to as "Provident")] to monitor the check meters for hot water, cold water and the VRF heating and cooling services appurtenant to each dwelling unit (as well as the check meter for natural gas appurtenant to each of the Special Landscaped Units). The Utility Monitor shall receive the bulk invoices for the water, gas and heating/cooling services utilized or consumed by all of the units and common elements as a whole, from or on behalf of the Condominium Corporation (as the latter's agent and designated representative) from the local water and natural gas authorities or providers, pursuant to readings taken by such authorities or providers on a bulk meter basis (hereinafter referred to as the "Bulk Utility Bills"). The Utility Monitor shall, at first instance, pay the Bulk Utility Bills in full on behalf of the Condominium, as and when due. However, in an effort to promote water conservation, the Vendor will be installing both a cold water and a hot water check meter or consumption meter appurtenant to each of the dwelling units in this Condominium (for the purposes of measuring and gauging the amount of cold water and hot water consumed by each owner's dwelling unit, and by any exclusive use common element areas appurtenant thereto). In addition, in an effort to promote energy conservation, the Vendor will be installing separate check or consumption meters for heating and cooling services appurtenant to each of the dwelling units in this Condominium (for the purposes of measuring and gauging the heating and cooling services consumed by each owner's dwelling unit, and any exclusive use common element areas appurtenant thereto). The Utility Monitor shall read the respective check or consumption meters for cold water, hot water, and heating/cooling services appurtenant to each of the dwelling units (as well as the natural gas check meter appurtenant to each of the Special Landscaped Units) on a periodic basis, and shall correspondingly issue invoices periodically to each of the respective dwelling unit owners for the cost of heating and cooling their respective dwelling units, and for the cost of their respective consumption of cold water and hot water (and for the cost of the consumption of natural gas in respect of any of the Special Landscaped Units), determined in accordance with the Utility Monitor's sub-meter readings. In turn, the Condominium Corporation shall pay the Utility Monitor the difference between the Bulk Utility Bills (on the one hand), and the aggregate of all utility charges attributable to the respective dwelling units, based on the Utility Monitor's reading of the aforementioned check or consumption meters appurtenant thereto (on the other hand), and which amount or differential shall comprise part of the common expenses, and is referred to in the servicing agreement or utility monitoring agreement to be entered into between the Condominium Corporation and the Utility Monitor as the "Corporation's Share"; and
 - ii) Toronto Hydro, who shall monitor the check meter for electricity appurtenant to each of the dwelling units (and the check meter appurtenant to each of the Electrical Parking Units, if applicable). The Condominium Corporation shall be responsible for paying the bulk electricity bill(s) reflecting the cost of the consumption of electricity in respect of all of the units and common elements as a whole (hereinafter referred to as the "Bulk Electricity Bills"). However, in an effort to promote energy conservation, the Vendor will be installing an electricity check meter or consumption meter appurtenant to each of the dwelling units in this Condominium (as well as a check meter appurtenant to each of the Electrical Parking Units, if applicable), for the purposes of measuring and gauging the amount of electricity consumed by each owner's dwelling unit, and by any exclusive use common element areas appurtenant thereto (as well as the amount of electricity consumed by each of the Electrical Parking Units, if applicable). Toronto Hydro shall read the check or consumption meter for electricity appurtenant to each of the dwelling units (as well as the check meter appurtenant to each of the Electrical Parking Units, if applicable) on a periodic basis, and shall correspondingly issue invoices periodically to each of the respective dwelling unit owners for the cost of their respective consumption of electricity, determined in accordance with Toronto Hydro's sub-meter readings.
- (f) The servicing agreement or utility monitoring agreement to be entered into between this Condominium and the Utility Monitor shall make the Utility Monitor responsible for attending to the maintenance, repair and/or replacement, as and when necessary, of the check meters for hot water, cold water and heating/cooling services appurtenant to each of the dwelling units in this Condominium (as well as the check meter for natural gas appurtenant

to each of the Special Landscaped Units), in order to ensure that same are operating properly, subject however to the overriding obligation of the Corporation to fully pay for (or to forthwith fully reimburse the Utility Monitor for) all costs and expenses incurred in connection with such maintenance or repair work and/or replacement (all of which costs so incurred by the Corporation shall comprise part of the common expenses). The servicing agreement or electricity monitoring agreement to be entered into between this Condominium and Toronto Hydro shall make Toronto Hydro responsible for attending to the maintenance, repair and/or replacement, as and when necessary, of the check meters for electricity appurtenant to each of the dwelling units (and appurtenant to each of the Electrical Parking Units, if applicable), in order to ensure that same are operating properly, subject however to the overriding obligation of the Corporation to fully pay for (or to forthwith fully reimburse Toronto Hydro for) all costs and expenses incurred in connection with such maintenance or repair work and/or replacement (all of which costs so incurred by the Corporation shall comprise part of the common expenses). In turn, the Utility Monitor shall be entitled to charge a monthly administration fee directly to each of the dwelling unit owners in this Condominium, incorporated as part of each unit owner's respective periodic invoices for the cost of the cold water, hot water and heating/cooling services so consumed (and for the cost of the natural gas so consumed by each of the Special Landscaped Units), as compensation for the Utility Monitor's reading and invoicing services. In addition, Toronto Hydro shall be entitled to charge a monthly administration fee directly to each of the dwelling unit owners in this Condominium, incorporated as part of each unit owner's respective periodic invoices for the cost of the electricity so consumed, as compensation for Toronto Hydro's reading and invoicing services.

- (g) Forthwith following the Corporation's receipt of each of the Bulk Utility Bills, the Corporation shall cause the Utility Monitor to read, on a monthly basis, the check meters for cold water, hot water and heating/cooling services appurtenant to each of the dwelling units (as well as the check meter for natural gas appurtenant to each of the Special Landscaped Units), either by a direct visual reading or by remote electronic/computerized means, or by any other method, provided same is reasonably reliable and accurate, and the Utility Monitor (as agent for and on behalf of the Corporation) shall thereafter issue and submit its own separate periodic invoice(s) to each of the dwelling unit owners, reflecting the cost of heating and cooling their respective dwelling units (and any exclusive use common element areas appurtenant thereto), and the cost for their respective cold water and hot water consumption (and for the cost of the natural gas consumption in respect of any of the Special Landscaped Units). Furthermore, following the Corporation's receipt of each of the Bulk Electricity Bills, the Corporation shall cause Toronto Hydro to read, on a monthly basis, the check meter for electricity appurtenant to each of the dwelling units (as well as the check meter for electricity appurtenant to each of the Electrical Parking Units, if applicable), either by a direct visual reading or by remote electronic/computerized means, or by any other method, provided same is reasonably reliable and accurate, and Toronto Hydro (on its own behalf or as the agent of the Corporation) shall thereafter issue and submit its own separate periodic invoice(s) to each of the dwelling unit owners, reflecting the cost of their respective electricity consumption.
- (h) The cost of heating and cooling each of the dwelling units and any exclusive use common element areas appurtenant thereto, as well as the cost of the cold water and hot water service so consumed by each of the dwelling units, and by any exclusive use common element areas appurtenant thereto (including the cost of any natural gas so consumed by any of the Special Landscaped Units) shall hereinafter be collectively referred to as each dwelling unit owner's "**Proportionate Share of Residential Utility Consumption**" or "**P.S.R.U.C.**" Each unit owner shall be obliged to pay to the Utility Monitor (as agent for the Corporation) his or her P.S.R.U.C., on or before the sixteenth (16th) day following the receipt of an invoice for same from the Utility Monitor (hereinafter referred to as the "**Due Date**"). In the event that any unit owner fails to pay to the Utility Monitor his or her P.S.R.U.C., on or before the Due Date, then in addition to any other rights, remedies or powers available to the Corporation (at common law, by statute, or in equity), the Corporation shall be entitled to:
- i) charge and levy interest against any delinquent or non-compliant dwelling unit owner (hereinafter referred to as the "**Defaulting Owner**") on such unpaid P.S.R.U.C., and on all costs and expenses incurred by the Corporation (or the Utility Monitor on behalf of the Corporation) in collecting (or attempting to collect) same, including all legal expenses incurred by the Corporation (or by the Utility Monitor on behalf of the Corporation) on a solicitor-and-client basis or substantial-indemnity scale, at a rate equal to 24% per annum, calculated monthly not in advance, with interest on the unpaid P.S.R.U.C. commencing to accrue from and after the Due Date, and with interest on all of the expenses incurred in collecting (or attempting to collect) same commencing to accrue from and after the respective dates that the Corporation (or the Utility Monitor, on behalf of the Corporation) incurred or expended same, and all such interest shall continue to accrue at the aforesaid rate until the date that all of the foregoing amounts are fully paid;
 - ii) add, to the extent permitted by law, the outstanding amount owing by the Defaulting Owner for such unpaid P.S.R.U.C., together with all outstanding interest accrued thereon as aforesaid, to the common expenses that are otherwise due and owing or payable by such Defaulting Owner to the Corporation, and to recover same from the Defaulting Owner in the same manner as common expenses (and with corresponding or similar lien rights in favour of the Corporation as apply to common expense arrears); and/or
 - iii) maintain and enforce a lien against the Defaulting Owner's unit, as security for the payment of his or her P.S.R.U.C., and for all costs and expenses incurred by the Corporation (or by the Utility Monitor, on behalf of the Corporation) in collecting (or attempting to collect) same, together with all outstanding interest accruing thereon as aforesaid (hereinafter referred to as the "**Utility Lien**"), and such Utility Lien shall be enforceable by the Corporation in the same manner, and to the same extent, as a real property mortgage or charge, and with all the rights, remedies and powers inherent in (or available to) a mortgagee or chargee when a mortgage or charge of real estate is in default pursuant to the provisions of the *Mortgages Act R.S.O. 1990, as amended*, and/or any other applicable statutory provision or common law principle applicable thereto, and in the event that the Land Titles Registrar requires the Corporation (as a prerequisite to the registration and/or enforcement of the Utility Lien) to apply to a court of competent jurisdiction for any order, direction, advice or authorization, then the Corporation shall be entitled to forthwith apply to such court for same, and the Defaulting Owner shall, for all purposes, be deemed to have consented to any such application by the Corporation. Moreover, all arrears of any check metered utilities, namely for cold water, hot water and/or heating/cooling services, as applicable (including for natural gas in respect of any Special Landscaped Unit, if applicable) that arise because any of the invoices issued by the Utility Monitor in connection therewith have not been paid by any dwelling unit owner(s), as and when said invoices are due and payable shall, to the extent permitted by law, thereupon be deemed and construed to constitute common expenses (and shall thereby specifically become common expense arrears), and may thereafter be collected by the Corporation in the same manner (and to the same extent, and with all the same rights and powers) as any other common expense arrears, and accordingly all such arrears of any check metered utilities shall properly constitute the subject matter of a common expense arrears lien, and may be enforceable by way of such lien (ie. with all of the super priority rights applicable thereto, as provided by or under the Act) against the delinquent owner's unit; provided however that if the immediately preceding clause is hereafter successfully judicially challenged, then same shall nevertheless not preclude, restrict or limit in any way (nor detract from, or negatively effect) the Corporation's Utility Lien and this Condominium's enforcement thereof in accordance with the foregoing provisions.
- (i) The cost of the electricity so consumed by each of the dwelling units, and by any exclusive use common element areas appurtenant thereto (including the cost of any electricity consumed by any of the Electrical Parking Units, if applicable) shall hereinafter be collectively referred to as each dwelling unit owner's "**Proportionate Share of Electricity Consumption**" or "**P.S.E.C.**" Each unit owner shall be obliged to pay to Toronto Hydro (as agent for the Corporation) his or her P.S.E.C., on or before the tenth (10th) day following the receipt of an invoice for same from Toronto Hydro (hereinafter referred to as the "**Electricity Due Date**"). In the event that any unit owner fails to pay to Toronto Hydro his or her P.S.E.C., on or before the Electricity Due Date, then in addition to any other rights, remedies or powers available to the Corporation (at common law, by statute, or in equity), the Corporation shall be entitled to:
- i) charge and levy interest against the Defaulting Owner on such unpaid P.S.E.C., and on all costs and expenses incurred by the Corporation (or Toronto Hydro on behalf of the Corporation) in collecting (or attempting to collect) same, including all legal expenses incurred by the Corporation (or by Toronto Hydro on behalf of the Corporation) on a solicitor-and-client basis or substantial-indemnity scale, at a rate equal to 24% per annum, calculated monthly not in advance, with interest on the unpaid P.S.E.C. commencing to accrue from and after the Electricity Due Date, and with interest on all of the expenses incurred in collecting (or attempting to collect) same commencing to accrue from and after the respective dates that the Corporation (or Toronto Hydro, on behalf of the Corporation) incurred or expended same, and all such interest shall continue to accrue at the aforesaid rate until the date that all of the foregoing amounts are fully paid;
 - ii) add, to the extent permitted by law, the outstanding amount owing by the Defaulting Owner for such unpaid P.S.E.C., together with all outstanding interest accrued thereon as aforesaid, to the common expenses that are otherwise due and owing or payable by such Defaulting Owner to the Corporation, and to recover same from the Defaulting Owner in the same manner as common expenses (and with corresponding or similar lien rights in favour of the Corporation as apply to common expense arrears); and/or
 - iii) maintain and enforce a lien against the Defaulting Owner's unit, as security for the payment of his or her P.S.E.C., and for all costs and expenses incurred by the Corporation (or by Toronto Hydro, on behalf of the Corporation) in collecting (or attempting to collect) same, together with all outstanding interest accruing thereon as aforesaid (hereinafter referred to as the "**Electricity Lien**"), and such Electricity Lien shall be enforceable by the Corporation in the same manner, and to the same extent, as a real property mortgage or charge, and with all the rights, remedies and powers

inherent in (or available to) a mortgagee or chargee when a mortgage or charge of real estate is in default pursuant to the provisions of the *Mortgages Act R.S.O. 1990, as amended*, and/or any other applicable statutory provision or common law principle applicable thereto, and in the event that the Land Titles Registrar requires the Corporation (as a prerequisite to the registration and/or enforcement of the Electricity Lien) to apply to a court of competent jurisdiction for any order, direction, advice or authorization, then the Corporation shall be entitled to forthwith apply to such court for same, and the Defaulting Owner shall, for all purposes, be deemed to have consented to any such application by the Corporation. Moreover, all arrears in respect of any electricity so consumed (based on the aforementioned electricity check meter readings from time to time), that arise because any of the invoices issued by Toronto Hydro in connection therewith have not been paid by any dwelling unit owner(s), as and when said invoices are due and payable shall, to the extent permitted by law, thereupon be deemed and construed to constitute common expenses (and shall thereby specifically become common expense arrears), and may thereafter be collected by the Corporation in the same manner (and to the same extent, and with all the same rights and powers) as any other common expense arrears, and accordingly all such arrears of any check metered electricity service shall properly constitute the subject matter of a common expense arrears lien, and may be enforceable by way of such lien (ie. with all of the super priority rights applicable thereto, as provided by or under the Act) against the delinquent owner's unit; provided however that if the immediately preceding clause is hereafter successfully judicially challenged, then same shall nevertheless not preclude, restrict or limit in any way (nor detract from, or negatively effect) the Corporation's Electricity Lien and this Condominium's enforcement thereof in accordance with the foregoing provisions.

- (j) The execution by the Corporation of a certificate confirming that the Corporation does, or does not, maintain or claim the Utility Lien and/or the Electricity Lien against a particular dwelling unit, shall constitute irrefutable evidence and proof of same, and the Corporation shall be obliged to execute such a certificate forthwith upon its receipt of a written request for same from the Vendor, any prospective purchaser or mortgagee of any unit, the then current registered owner of any unit, or from any other party interested in such information, at a charge, fee or expense to the party so requesting same not exceeding \$100 plus HST (but at no charge, fee or expense whatsoever to the Vendor or the Vendor's solicitor requesting same).
- (k) As previously mentioned, the Vendor is proposing that this Condominium shall enter into the utility monitoring agreement with Provident Energy Management Inc. (hereinafter referred to as "Provident"), which company is related to or affiliated with the Vendor, to serve and act as the Utility Monitor for and on behalf of the Corporation, and it is presently proposed that its administration fee (to be charged with each monthly invoice to each dwelling unit owner during the first year following the registration of this Condominium) covering its monitoring and invoicing services with respect to the individual check or consumption meters appurtenant to each of the dwelling units in this Condominium, for hot water, cold water and VRF heating/cooling services (and for natural gas in respect of each of the Special Landscaped Units) shall be **approximately:**
- i) **\$19.50 per month plus HST, payable by each dwelling unit owner with respect to the monitoring and invoicing services regarding each of the cold water, hot water and heating/cooling check meters appurtenant to each of the dwelling units [unless any such dwelling unit owner agrees in writing with Provident to receive all periodic invoices from the Utility Monitor electronically (by e-mail), rather than in paper form, in which case the monthly administration fee will be discounted by \$2.00 per month, and correspondingly reduced to approximately \$17.50 per month plus HST]; and**
 - ii) **\$21.50 per month plus HST, payable by each owner of any of the Special Landscaped Units, with respect to the monitoring and invoicing services regarding each of the cold water, hot water, natural gas and heating/cooling check meters appurtenant to such Special Landscaped Unit [unless any such dwelling unit owner agrees in writing with Provident to receive all periodic invoices from the Utility Monitor electronically (by e-mail), rather than in paper form, in which case the monthly administration fee will be discounted by \$2.00 per month, and correspondingly reduced to approximately \$19.50 per month plus HST].**

Please note that the aforementioned monthly fees charged by the Utility Monitor are subject to change, from time to time, upon written notice from the Utility Monitor to the Corporation and/or to each of the dwelling unit owners in this Condominium, and are also subject to an automatic increase on each anniversary of the date of registration of this Condominium, based on the equivalent proportionate increase in the Consumer Price Index published by Statistics Canada. Furthermore, the Purchaser shall be obliged to reimburse the Vendor, on closing, for the cost of procuring and installing the respective cold water, hot water and heating/cooling check meters appurtenant to the Unit (as well as the check meter for natural gas appurtenant to each of the Special Landscaped Units), plus any HST exigible in connection therewith, by way of a credit to the Vendor (or a corresponding charge to the Purchaser) in the statement of adjustments at final closing, and shall also be obliged to pay (on a monthly basis) all consumption charges for the cold water, hot water and heating/cooling services respectively consumed by the Unit, and any exclusive use common element areas appurtenant thereto (as well as the cost of the natural gas so consumed by the Unit, if same comprises one of the Special Landscaped Units), from and after the date that the Purchaser assumes (or is deemed to assume) possession or occupancy of the Unit, together with all applicable administration fees so charged by the Utility Monitor in connection therewith.

- (l) It is presently proposed that Toronto Hydro's administration fee (to be charged with each monthly invoice to each dwelling unit owner during the first year following the registration of this Condominium) covering its monitoring and invoicing services with respect to the individual check or consumption meter for electricity appurtenant to each of the dwelling units (and with respect to the electricity check meter appurtenant to each of the Electrical Parking Units, if applicable) shall be **approximately \$19.50 per month plus HST, payable by each dwelling unit owner per dwelling unit, and per Electrical Parking Unit (if any), subject to increase on each anniversary of the date of registration of the Condominium**, based on equivalent proportionate increases in the Consumer Price Index published by Statistics Canada. Furthermore, the Purchaser shall be obliged to reimburse the Vendor, on closing, for the cost of procuring and installing the electricity check meter appurtenant to the Unit, plus HST exigible in connection therewith, by way of a credit to the Vendor (or a corresponding charge to the Purchaser) in the statement of adjustments at final closing, and shall also be obliged to pay (on a monthly basis) all electricity consumption charges consumed by the Unit, and any exclusive use common element areas appurtenant thereto, from and after the date that the Purchaser assumes (or is deemed to assume) possession or occupancy of the Unit, together with all applicable administration fees so charged by Toronto Hydro in connection therewith.
- (m) In accordance with the foregoing, the Unit's consumption of cold water, hot water and electricity respectively [including the cost of cold water, hot water and electricity consumed or utilized by any exclusive use common element area(s) appurtenant to the Unit], as well as the cost of heating and cooling the Unit (and the cost of natural gas so consumed, if the Unit comprises one of the Special Landscaped Units), pursuant to the aforementioned check meters appurtenant to the Unit, along with the aforementioned monthly administrative charges or fees payable to each of the Utility Monitor and Toronto Hydro as hereinbefore provided, shall **not** comprise part of the common expenses, but rather shall be borne and paid for solely by the Purchaser, from and after the earlier of the Firm Occupancy Date or the date that the Purchaser first occupies the Unit. Accordingly, the Purchaser shall be obliged to pay for (on a monthly basis) all charges for cold water, hot water, electricity and heating/cooling services so consumed by the Unit and any exclusive use common element area appurtenant thereto (and all charges for natural gas so consumed by the Unit, if same constitutes one of the Special Landscaped Units), from and after the date that the Purchaser assumes (or is deemed to assume) possession or occupancy of the Unit, together with all applicable administration fees so charged by the Utility Monitor and Toronto Hydro in connection therewith, separate and apart from (and in addition to) the monthly occupancy fees payable by the Purchaser prior to the registration of the Condominium, if applicable [and separate and apart from (and in addition to) the monthly common expenses assessed against (and attributable to) the Unit from and after the date of registration of the Condominium]. The Purchaser shall permit access by the Utility Monitor and Toronto Hydro and their respective designated representatives to the Unit (and to all requisite common element areas) at all reasonable times and from time to time, in order to allow the Utility Monitor and Toronto Hydro to take meter readings of the cold water, hot water, electricity and heating/cooling service check meters appurtenant to the Unit (including meter readings of the natural gas check meter appurtenant to each of the Special Landscaped Units), and to carry out any necessary maintenance or repairs thereto, as and when required, in order to ensure that said cold water, hot water, electricity and heating/cooling check meters (and the natural gas check meter appurtenant to each of the Special Landscaped Units) are operating properly. The Corporation shall be obliged to fully pay for (or to forthwith fully reimburse the Utility Monitor and Toronto Hydro for) all costs and expenses incurred in connection with the maintenance, repair and/or replacement of any of the cold water, hot water, electricity and/or heating/cooling check meters appurtenant to each of the dwelling units (as well as the maintenance, repair and/or replacement of the check meter for natural gas appurtenant to each of the Special Landscaped Units), as and when required, and all such maintenance, repair and/or replacement costs shall comprise part of the common expenses of this Condominium. Furthermore, the Purchaser shall be obliged to reimburse the Vendor, on closing, for the cost of procuring and installing the aforementioned cold water, hot water, electricity and heating/cooling check meters appurtenant to the Unit (as well as the check meter for natural gas appurtenant to each of the Special Landscaped Units), plus any HST exigible in connection therewith, by way of a credit to the Vendor (or a corresponding charge to the Purchaser) in the statement of adjustments at final closing.
- (n) In order to facilitate the payment of all invoices issued by the Utility Monitor and Toronto Hydro from time to time, each of the unit owners shall make their requisite payments directly to each of the Utility Monitor and Toronto Hydro by way of a pre-authorized payment plan, and shall execute and deliver such bank forms, authorizations, documents and instruments (including the provision of an unsigned cheque marked "void" from the bank

account to be used for making all such payments to each of the Utility Monitor and Toronto Hydro) as may be reasonably required from time to time by the Corporation, the Utility Monitor and/or Toronto Hydro in order to implement (and give full force and effect to) any such pre-authorized payment plan. Without limiting the generality of the foregoing, the Purchaser hereby agrees to execute and deliver to the Vendor's solicitors, on or before the earlier of the interim occupancy closing or the final closing of this transaction (as applicable), the Utility Monitor's pre-authorized payment plan form, together with an unsigned cheque marked "void" from the Purchaser's bank account to be used for making all such payments to the Utility Monitor, as well as Toronto Hydro's pre-authorized payment plan form, together with an unsigned cheque marked "void" from the Purchaser's bank account to be used for making all such payments to Toronto Hydro.

- (o) The Vendor intends to develop this Condominium with some high-performance and energy-efficient equipment and materials, so that the residents of this Condominium will benefit from energy-related cost savings during the life of the installed equipment and materials. In addition, the Vendor may endeavor to obtain third party authentication of the condominium building's energy performance, including confirmation that this Condominium has been designed and built to achieve suitable energy performance targets (and correspondingly designed to use 25% less energy than a comparable building designed to the specifications of the 1997 Model National Energy Code for buildings, as determined by third-party verified energy performance modeling), and will also endeavour to have this Condominium attain or achieve "LEED Gold" certification (ie. by having this Condominium attain the minimum number of credits required for certification by the **Leadership in Energy and Environmental Design**, in respect of the "green building rating system") as determined by the Canada Green Building Council or the United States Green Building Council, a national non-governmental organization, or any other comparable independent third party energy-modelling agency, following the completion and occupancy of the condominium building. To this end, representatives of said governmental agencies (together with representatives of environmental and/or energy-related consultants retained by the Vendor) will need to access the individual units and common elements of this Condominium from time to time, both before and after registration of this Condominium, in order to inspect the aforementioned energy efficient equipment and materials so installed by the Vendor, and to measure the resulting energy output or consumption (and the corresponding energy savings achieved), and the Purchaser hereby expressly agrees to such access (and to the Corporation maintaining the building to the **LEED Gold certified standard**), and further agrees to allow the Vendor and its consultants to monitor and use the aforementioned energy data for a period of seven years following the date of registration of this Condominium, for research and for future design, development, redevelopment, renovation and/or retrofitting purposes. **However, it is expressly understood and agreed that the Vendor is not guaranteeing (nor making any warranty or representation whatsoever) that the condominium building will, in fact, ultimately attain or achieve LEED Gold certification or equivalent status, nor shall the Vendor be responsible or liable in any way for maintaining the condominium building according to the LEED Gold certified standard, after the point of initial certification (if LEED Gold certification is, in fact, ever achieved or attained), under any circumstances whatsoever.**
- (p) The Purchaser is hereby advised that this Condominium will be subject to various ongoing risk management and/or risk mitigation measures imposed by one or more certificates of requirement and/or certificates of property use (hereinafter collectively referred to as the "CPU") that will be issued by the Ministry of Environment & Climate Change ("MOECC") in connection with the development of the Real Property and the ongoing maintenance and administration of this Condominium (and shall also be subject to the risk assessment filed in respect of the Real Property with the MOECC's Site Registry, along with the record of site condition), including without limitation, the requirement for the ongoing inspection, testing and monitoring of the soil and/or the ground water situate within the confines of the Condominium (or within the adjacent lands) that is ultimately discharged into the City of Toronto's sewer system, together with the ongoing testing and monitoring of the air quality in respect of the air within the below-grade portions of the Condominium, along with periodic reporting requirements in connection therewith. Accordingly, soil and/or ground water samples and air samples will have to be taken from this Condominium's below-grade common element areas on a periodic basis, as stipulated by the CPU, for ultimate analysis by an accredited laboratory, with records of all sampling events and analytical test results to be maintained by the Condominium Corporation and available for inspection by the MOECC upon request. The performance and fulfilment of all outstanding obligations and requirements outlined in the CPU, including without limitation, all periodic testing, monitoring and/or reporting requirements in respect of the soil, ground water and/or air quality, and/or the implementation of any health and safety plan, to the satisfaction of the MOECC, and the maintenance of all required records relating thereto for ultimate inspection and approval by the MOECC (all of which obligations are hereinafter collectively referred to as the "CPU Obligations") shall be undertaken and coordinated by the committee representing all three Contributors (hereinafter referred to as the "Three-Way Shared Facilities Committee"), and all costs and expenses incurred in connection with the CPU Obligations (hereinafter collectively referred to as the "CPU Compliance Costs") will ultimately be shared by and amongst the three Contributors (namely this Condominium, the Daycare Centre Owner and the Retail Component Owner) and shall correspondingly comprise part of the Three-Way Shared Facilities Costs (as hereinafter defined).
- (q) This Condominium will be constructed and completed so that the ground water that emanates from or through this Condominium's building foundation (and/or its appurtenant drainage system) will ultimately be discharged directly into the City of Toronto's storm sewer system. In order to accommodate same, the Vendor intends to install a permanent ground water filtration and drainage system within the confines of this Condominium, in order to filter and cleanse the ground water emanating from the lands upon which the Project (or any portion thereof) has been erected, and to ultimately drain said ground water directly into the City of Toronto's storm sewer system (hereinafter collectively referred to as the "Ground Water Filtration System"). In addition, a ground water discharge agreement will ultimately be entered into by the Vendor with the City of Toronto (pursuant to the City of Toronto's Municipal Code Chapter 681, as amended from time to time), and correspondingly assigned to (and assumed by) this Condominium (hereinafter referred to as the "Ground Water Discharge Agreement"), which will impose various outstanding and ongoing obligations with respect to the control and treatment of the ground water being discharged into the City of Toronto's storm sewer system, including without limitation, the requirement for the ground water to be tested periodically to ensure that same is clean filtered water, or water that meets the City of Toronto's tolerance levels or standards (hereinafter collectively referred to as the "Ground Water Discharge Obligations"). The performance and fulfilment of the Ground Water Discharge Obligations shall be undertaken and coordinated by the Three-Way Shared Facilities Committee, on behalf of all three Contributors. All costs and expenses incurred in connection with any ground water control and/or ground water treatment measures pertaining to the Project, including all costs incurred in connection with the operation, maintenance and/or repair of the Ground Water Filtration System, as well as all costs and expenses incurred in connection with (or arising from) the indemnity of the City of Toronto and/or the Vendor in respect of (or by reason of) any contravention of the City of Toronto's requirements applicable to foundation drainage and/or ground water discharge into the City of Toronto's storm sewer system, or by reason of any damage or injury occasioned to (or in connection with) the Ground Water Filtration System (or any portion thereof), or arising from (or pursuant to) the Ground Water Discharge Agreement (all of which are hereinafter collectively referred to as the "Ground Water Discharge Costs") shall ultimately be shared by and amongst the three Contributors (namely this Condominium, the Daycare Centre Owner and the Retail Component Owner) and shall correspondingly comprise part of the Three-Way Shared Facilities Costs (as hereinafter defined).
- (r) This Condominium, when completed, will incorporate various mandatory green building initiatives and sustainability features imposed by the City of Toronto and/or Waterfront Toronto (hereinafter referred to as the "City's Green Development Standards"), including without limitation, one or more green roofs, and the Condominium Corporation will be obliged to ensure that the City's Green Development Standards are being properly maintained, on an ongoing basis. The Condominium Corporation shall also permit representatives of Waterfront Toronto reasonable access, from time to time, to this Condominium's bulk energy data, in order to determine the extent to which the City's Green Development Standards (and/or any energy-efficient equipment & materials so installed or incorporated in the course of constructing and completing this Condominium) are affecting or impacting this Condominium's overall water and energy consumption. Furthermore, as a prerequisite to the development and completion of this Condominium, a noise study, a vibration study, and an emissions study will be submitted to (and ultimately approved by) the City of Toronto, and the Condominium Corporation will be obliged to maintain any required noise, vibration and/or emissions mitigation, attenuation and/or equivalent measures identified in each of the approved studies, to the satisfaction of the City of Toronto, at all times following the registration of this Condominium, and all costs and expenses incurred in connection therewith shall comprise part of the common expenses, and such anticipated costs shall be reflected in this Condominium's annual operating budgets.
- (s) Notwithstanding anything heretofore provided to the contrary, it is understood and agreed that the Vendor shall have the unilateral right to alter, modify or completely replace all or any portion of the heating and cooling system proposed to service this Condominium and/or the individual dwelling units (including any or all of the water, gas, electricity, thermal energy and/or other utility or similar services and/or systems proposed to service this Condominium, or any portion thereof) with a different system and/or related equipment (in whole or in part), including making changes to the metering or check metering system associated therewith or appurtenant thereto, if and when the Vendor deems same to be necessary, appropriate or more desirable under the circumstances, and the Purchaser hereby confirms not only that the Vendor shall be entitled to implement same unilaterally, but that same shall not be deemed or construed to constitute a material change to the disclosure statement, and shall not give rise to any rights or claims (whether for rescission, termination, damages, compensation, an abatement in the purchase price or otherwise) by the Purchaser or the Condominium Corporation against the Vendor whatsoever.

NOISE WARNING AND OTHER SPECIAL NOTICES

2.11 (a) The Purchaser specifically acknowledges and agrees that in addition to the sources of excessive noise and/or vibrations referred to in Section 2.11 (a) of Schedule "A", it is understood and agreed that the proximity of this Condominium to the Gardiner Expressway, Lake Shore Blvd. East, Queens Quay East, Lower Sherbourne Street and Merchants Wharf respectively (being major arterial roadways), and to the Shared Roadway known as Edgewater Drive (being the access and connecting route to this Condominium, as well as the access route for some or all of the Neighbouring Owners), and to the nearby Redpath Sugar Ltd.'s refinery to the west of this Condominium, and to the nearby Essroc Canada Inc.'s cement transfer facility to the east of this Condominium, and to various other commercial and/or industrial operations being carried on within the Portlands section of the City of Toronto, or at the Jarvis Street Slip to the west of this Condominium, or at the Parliament Street Slip to the east of this Condominium, as well as the proximity of this Condominium to the municipal park to the west of this Condominium (known as Aitken Place Park), and to the adjacent Daycare Centre (including the outdoor playground area on level 2 thereof), and to the Public Walkway also known as Kanadario Lane situate to the west of this Condominium, and to the adjacent ground floor commercial/retail businesses and operations comprising part of the Retail Component (including any outside patios or terraces used by any restaurant or other food service operations comprising part of same), and to the nearby Toronto City Centre Airport (formerly the Toronto Island Airport), the Toronto Port Authority and the Toronto Island Ferry Terminal, and to the nearby downtown railway corridor running into and out of the downtown core of the City of Toronto, and to the City of Toronto's harbour (where ships, barges and cargo vessels traverse the waters in Lake Ontario transporting and loading/unloading materials), and to the proposed future light rail transit line to be operating along Queens Quay East (hereinafter referred to as the "LRT"), along with the corresponding noises, vibrations, emissions, dust, odours and pedestrian/vehicular traffic congestion generated thereby (as well as the likelihood of increasing pedestrian and vehicular traffic, bus/street car traffic, LRT traffic and/or train traffic noises and/or airplane take-off and landing noises, generated therefrom), and the proximity of this Condominium to commercial/retail buildings in the neighbouring vicinity of this Condominium (and any noises generated from the commercial vehicles loading and unloading goods and materials to the commercial/retail buildings in the neighbouring vicinity of this Condominium), and to other future nearby high-rise, mid-rise and/or low-rise condominiums, as well as to nearby commercial, retail and/or office buildings, and to the nearby waterfront walkways and related boating facilities, may result in noise, vibrations, emissions, dust, odours and electro-magnetic interference and stray current transmissions to (or otherwise affecting) this Condominium and the respective occupants of the dwelling units in this Condominium, and may cause the noise exposure levels, vibration levels, electro-magnetic interference and/or stray current transmissions affecting this Condominium and/or the occupants thereof to exceed the noise/vibration/electro-magnetic interference and/or stray current transmission levels and/or criteria established or approved by the Governmental Authorities, with the potential for the occupants of this Condominium to be negatively impacted by excessive noise, air emissions, dust, odours, vibrations, electro-magnetic interference, stray current transmissions and/or negative visual impacts, respectively. In light of the foregoing, the development agreement and/or the subdivision agreement governing the development of the lands upon which this Condominium is being constructed, requires the following warning clauses in all agreements of purchase and sale and in all rental agreements for residential dwelling units, namely: "Purchasers are advised that despite the (proposed) inclusion of noise and vibration control features in this development and within the condominium dwelling units, noise, sound and/or vibration levels from increasing vehicular traffic on nearby streets and highways and/or nearby bus, train and/or air plane transit operations from nearby railway lines (and corresponding railway operations), and from the nearby airport facility (and corresponding airline operations), may continue to be of concern, occasionally interfering with some activities of the dwelling occupants. Each of the dwelling units in this Condominium have been (or will be) supplied with a central air-conditioning system, which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality's and the Ministry of Environment & Climate Change's noise criteria. Purchasers and/or tenants are also advised that due to the proximity of nearby industrial and commercial facilities in this area, sound levels from these facilities may result in noise and vibration transmissions." The Purchaser nevertheless agrees to complete this transaction in accordance with the terms hereof, notwithstanding the existence of such potential noise, vibration, electro-magnetic interference and/or stray current transmission concerns, and the Purchaser further acknowledges and agrees that the following warning clauses (which may or may not be similar to the warning clause outlined in Section 2.11(a) of Schedule "A"), have been inserted in this Agreement at the insistence of the City of Toronto, the Toronto Transit Commission, GO Transit/Metrolinx, the Canadian Pacific Railway, the Canadian National Railway and/or the Toronto Island Airport, respectively:

- i) **Redpath Facility Warning Clause:** "Warning: This site is in close proximity to the heavy industrial Redpath Sugar refinery located at 95 Queens Quay Boulevard East (the "Redpath Facility") which operates 24 hours a day, 7 days a week. Various processes, shipping and receiving operations, and rail operations may either operate continuously or at any time of day or night. Activities may include: loading, unloading and repair of large tractor trailers or bulk bin trucks; loading, unloading and movements of railway cars along Queens Quay Boulevard; docking and unloading of ocean and lake-going ships; venting of steam; construction and repair; and operation of various sugar refining processes; and permitted electrical co-generation facilities. In addition, there may be industrial odours and light emanating from the refinery from time to time. Redpath may apply to alter or expand the Redpath Facility in the future. Notwithstanding the inclusion of certain mitigation features within this development to lessen potential noise, air emissions, dust, odour, vibration, and visual impact from the Redpath Facility, from time to time noise from the Redpath Facility is likely to be audible, odours may be unpleasant, and dust and light emissions may be bothersome and such potential noise, air emissions, dust, odour, vibrations and visual impact may impact the enjoyment of indoor and outdoor areas of this development. Redpath Sugar advises that it will not be responsible for any complaints or claims arising from any of the activities at or relating to the Redpath Facility property or operations thereon." The foregoing warning clause regarding the Redpath Facility shall be included within this Condominium's disclosure statement and declaration, and all unit purchasers and their successors and assigns shall be advised of said warning clause in any status certificate issued by the Condominium Corporation.
- ii) **Noise, Vibrations & Emissions Mitigation Measures:** As a prerequisite to the development and completion of this Condominium, a noise study, a vibrations study, and an emissions study will ultimately be submitted to (and approved by) the City of Toronto, and the Condominium Corporation will be obliged to maintain any and all required mitigation, attenuation and/or equivalent measures identified in each of the approved noise study, vibrations study and emissions study respectively, to the satisfaction of the City of Toronto, at all times following the registration of the Condominium, and all costs and expenses incurred in connection therewith shall comprise part of the common expenses. In addition, neither the board of directors of the Condominium, nor any unit owner(s) or tenant(s), nor anyone else, shall be permitted to make any change(s) to any of the units or common elements that would contravene the mitigation and architectural control measures required by the approved noise study, vibrations study, emissions study and/or the building permit plans for the Condominium, as applicable.
- iii) **Risk Management Measures Involving Ground Water & Air Quality Testing & Monitoring:** Purchasers are further notified that a certificate of property use has been (or will be) issued pursuant to Section 168.6(1) of the *Environmental Protection Act R.S.O. 1990, as amended*, in respect of the Real Property (hereinafter referred to as the "CPU"). Inter alia, the CPU details certain on-going risk management measures which the Condominium Corporation will be obliged to carry out and which are to be implemented to ensure that the Real Property (and the Condominium developed thereon) remains suitable for the intended residential use. The risk management measures include, inter alia, the implementation of on-going inspection and maintenance measures, ground water testing and monitoring, air testing and monitoring, and reporting requirements. The ground water monitoring program [to ensure that groundwater contaminants of concern remain at acceptable levels] will consist of sampling from the sump/pumping system and/or storm sewer and shall be carried out as frequently as the Ministry of Environment & Climate Change may require from time to time. Air monitoring [to ensure that indoor air contaminants of concern remain at acceptable levels] shall be carried out at the lowest level of the Condominium's parking garage below grade, at a minimum of two different monitoring locations, as frequently as the Ministry of Environment & Climate Change may require from time to time. Sampling records shall be maintained by the Condominium Corporation and shall be available for inspection by the Ministry of Environment & Climate Change officials upon request. A copy of the CPU shall be delivered by the Vendor/Declarant to the board of directors elected at the turnover meeting held pursuant to Section 43 of the Act, and shall thereafter be maintained as part of the records of the Condominium Corporation. At any time after said turnover meeting, a copy of the CPU shall be provided by the Condominium Corporation to any owner who requests same, subject only to the payment of a reasonable copying charge.
- iv) **Warning of Potential Interferences:** Each unit purchaser and/or lessee specifically acknowledges and agrees that the development of the Lands upon which this Condominium is being (or has been) constructed, will be developed in accordance with any requirements that may be imposed from time to time by any Governmental Authorities and that the proximity of this Condominium to the Toronto Transit Commission's transit operations may result in noise, vibration, electro-magnetic interference and stray current transmissions,

as well as smoke and particulate matter transmissions (hereinafter collectively referred to in this subparagraph as the "Interferences") to this Condominium, and despite the inclusion of control features within this Condominium, Interferences from transit operations may continue to be of concern, occasionally interfering with some activities of the occupants in this Condominium. Notwithstanding the above, each unit purchaser and/or lessee agrees to indemnify and save the City of Toronto, Waterfront Toronto and the Toronto Transit Commission harmless, from and against all claims, losses, judgments or actions arising or resulting from any and all Interferences. Furthermore, each unit purchaser and/or lessee acknowledges and agrees that an electro-magnetic, stray current and noise-warning clause similar to the one contained herein shall be inserted into any succeeding or subsequent sales agreement, lease or sublease, and that this requirement shall be binding not only on the parties hereto but also their respective heirs, estate trustees, successors and permitted assigns, and shall not die or terminate with the closing of the purchase and sale transaction with the Declarant. Finally, the City of Toronto, Waterfront Toronto and the Toronto Transit Commission do not, and will not, accept any responsibility for any of the Interferences in respect of this Condominium and/or its occupants;

- v) **Toronto Hydro's Warning Clause:** Each unit purchaser specifically acknowledges and agrees that the development of the Lands upon which this Condominium is being constructed, will be undertaken and completed in accordance with any requirements that may be imposed from time to time by any governmental authorities having jurisdiction thereover, and that the proximity of this Condominium to an on-site hydro transformer vault installed by the Vendor, that may ultimately be owned or operated by Toronto Hydro Electric System Limited (hereinafter referred to as "Toronto Hydro"), as well as the proximity of this Condominium to various facilities, installations and/or equipment owned and/or operated by Toronto Hydro, may result in noise, vibration, electro-magnetic interference and/or stray current transmissions (hereinafter collectively referred to in this subparagraph as the "Interferences") to this Condominium, and despite the inclusion of noise and/or vibration control features within this Condominium, Interferences from the aforementioned sources may continue to be of concern, occasionally interfering with some activities of the occupants in this Condominium. Notwithstanding the above, the Purchaser hereby agrees to indemnify and save each of the City of Toronto and Toronto Hydro harmless, from and against all claims, losses, judgments or actions arising or resulting from any and all of the Interferences. Furthermore, the Purchaser acknowledges and agrees that an electro-magnetic, stray current and/or noise-warning/vibration clause similar to the foregoing must be inserted into any succeeding or subsequent sale agreement or lease hereafter entered into by the Purchaser with respect to the unit(s) being acquired by the Purchaser hereunder, and that this requirement shall be binding not only on the Purchaser, but also upon the Purchaser's respective heirs, estate trustees, successors and permitted assigns, and shall not cease or terminate on the closing of this purchase and sale transaction with the Vendor. Finally, it is expressly acknowledged and agreed that the City of Toronto and Toronto Hydro do not, and will not, accept any responsibility or liability for any of the Interferences in respect of this Condominium and/or its occupants;
- vi) **Warning Regarding Handicapped Parking:** Any visitor handicapped parking space(s) situate in this Condominium may only be used by a disabled or handicapped visitor to this Condominium, provided that he or she holds a valid disabled parking permit that is appropriately displayed or visible in his or her vehicle. The Condominium Corporation shall retain control of any handicapped parking spaces at all times, and none of the handicapped parking spaces can ever be made, converted to, nor considered part of the exclusive use portions of the common elements. If any handicapped parking is utilized in this Condominium, then non-disabled owners and/or occupants of any handicapped parking unit shall be obliged, upon notification by the condominium corporation, to exchange, at no cost to a disabled driver who is a resident of this Condominium (and who holds a valid disabled parking permit that is appropriately displayed or visible in their vehicle), the use of the handicapped parking unit with the disabled driver's non-handicapped parking unit, throughout the duration of such disabled person's residency in this Condominium;
- vii) **CNR Warning Clause:** "Warning: Canadian National Railway Company ("CNR") or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. CNR or its successors and assigns have facilities and operations in the vicinity, including but not limited to, station platform operations, train movements through various switch and track routings, diesel locomotive storage, start-up and idling. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid, or other railway companies or their assigns or successors (including without limitation, Metrolinx or Via Rail Canada Inc.) may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise, vibration and/or air quality attenuating measures in the design of the development and the individual dwelling(s). CNR, Metrolinx and/or Via Rail Canada Inc. will not be responsible for any complaints or claims arising from the use of such facilities and/or operations on, over or under the aforesaid right-of-way;"
- viii) **CPR Warning Clause:** "Warning: Canadian Pacific Railway ("CPR") or its assigns or successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and the individual dwelling(s). CPR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way;"
- ix) **Berm, Fencing or Vibration Isolation Warning Clause:** "Warning: Purchasers and tenants of dwelling units are advised that any berm fencing or vibration isolation features so implemented are not to be tampered with or altered, and that the Owner (and ultimately the Condominium Corporation) shall have the sole responsibility for and shall maintain these features;"
- x) **CPR/CNR Railway Yard Warning Clause:** One or more of the agreements governing the development of the lands upon which this Condominium is being constructed, requires the following warning clauses in all agreements of purchase and sale and/or rental agreements, namely: "Warning: Canadian Pacific Railway and/or Canadian National Railway or their respective assigns or successors in interest (hereinafter collectively referred to in this subparagraph as the "Railway") has or have a railway classification yard located within 1,000 metres from the land the subject hereof; that its operations are conducted 24 hours a day, 7 days a week, which includes the shunting of trains and the idling of locomotives. There may be alterations to or expansions of the railway yard operations in the future, which alterations or expansions may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and the individual dwelling(s), and the Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations;"
- xi) **TTC Warning Clause - Regarding Existing Bus/Streetcar System and Future LRT:** "Warning: Parts of this development are in close proximity to the Toronto Transit Commission's ("TTC") existing bus and/or streetcar system operating along Queens Quay East, and the future light rail transit system to be installed and operating along Queens Quay East (hereinafter referred to as the "LRT"). Notwithstanding the inclusion of certain mitigation features within this development to lessen potential noise, vibration, odour, visual impact, EMI and stray current, from time-to-time noise, vibration and stray current from the TTC's bus and/or streetcar operations and/or the future LRT operations may be audible and/or experienced, noise and odours from the bus and/or streetcar operations and/or the LRT operations may be unpleasant, and lighting at or near the existing bus and/or streetcar station, or at or near the future LRT station, may sometimes be intrusive and may affect the living environment of the residents in the development. The TTC shall not be responsible for any complaints or claims arising from any of the activities at or relating to the TTC's bus and/or streetcar station and operations, or the future LRT station and operations, comprising part of the TTC facilities."

The Purchaser hereby expressly (i) acknowledges and confirms having read the foregoing TTC Warning Clause, and (ii) releases the TTC from any and all liability resulting from the construction of and/or the continued operation of the bus and/or streetcar line and/or the LRT in compliance with applicable provincial requirements, and (iii) agrees to obtain from any subsequent purchaser or transferee of the Property a similar written acknowledgement confirming the provisions contained in (i), (ii) and (iii) of this acknowledgement and release;

- xii) **TTC Warning Clause - Regarding Future LRT Operations:** The City of Toronto and/or the Toronto Transit Commission (hereinafter sometimes referred to as the "TTC") operates a public surface bus and/or streetcar transit system (along Queens Quay East), in the neighbouring vicinity of the Lands, and there may be alterations to (or expansions of) said surface transit system and its appurtenant facilities and operations in the future, including without limitation, the construction, installation and operation of a future light rail transit system (hereinafter referred to as the "LRT") running along Queens Quay East, and such alterations and/or expansion of the existing surface transit system, including the aforementioned LRT system, may create significantly increased noise and vibrations (and particularly disturbances during the installation and operation of the LRT system itself), potentially negatively impacting or affecting

the living environment of the residents in this Condominium and in the vicinity, notwithstanding the inclusion of any noise and/or vibration attenuating measures in the design of this Condominium and the individual dwelling units, and neither the City of Toronto nor the TTC shall be responsible for any complaints or claims arising from the use of the public surface transit system and its related facilities and operations (including the installation and use of the LRT system and its related facilities and operations) in the neighbouring vicinity of the Lands, including complaints or claims arising from the construction, installation and/or operation of the aforementioned LRT system along Queens Quay East. Without limiting the generality of the foregoing, all unit purchasers are hereby further advised that some activities which may be carried out by the City of Toronto and/or the TTC in connection with the ordinary operation of the TTC's transit facilities situate within (or operated within) the neighbouring vicinity of the Lands and this Condominium, and particularly the aforementioned LRT system hereafter installed and operating along Queens Quay East, may generate noise, vibrations, odours, emissions, dust, etc., as well as electro-magnetic interference and/or stray currents, which may affect the Lands and this Condominium so developed thereon, and may correspondingly create some inconvenience, interference and/or disturbance to the residents of this Condominium, and that despite the foregoing, neither this Condominium, nor any unit owners or residents within this Condominium, shall be entitled to any compensation from the City of Toronto and/or the TTC arising from (or in connection with) any such resulting inconvenience, interference or disturbance, nor make, initiate or pursue any claim or cause of action against the City of Toronto and/or the TTC for damages arising from (or pertaining to) any noise, vibrations, odours, emissions (including smoke or exhaust), electro-magnetic interference and/or stray currents now or hereafter affecting the Lands and/or the owners or residents of this Condominium, nor make, initiate or pursue any claim or cause of action against the Vendor and/or its agents and representatives for damages arising from (or pertaining to) any noise, vibrations, odours, emissions (including smoke or exhaust), electro-magnetic interference and/or stray currents now or hereafter affecting the Lands and/or the owners or residents of this Condominium;

- xiii) Metrolinx (created by the Greater Toronto Transit Authority and formerly known as Go Transit): Metrolinx, and its assigns and successors in interest, have a right-of-way within 300 metres from the Lands. Metrolinx or its successors and assigns have facilities and operations in the vicinity, including but not limited to, station platform operations, train movements through various switch and track routings, diesel locomotive storage, start-up and idling. There may be alterations to or expansions of the rail facilities on such right-of-way in the future, including the possibility that Metrolinx or any other railway company or companies entering into an agreement with Metrolinx to use the right-of-way, or their assigns or successors as aforesaid, may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise, vibration and/or air quality attenuating measures in the design of the development and individual dwelling(s). Metrolinx (and any other railway companies who may use the aforementioned right-of-way, including without limitation, the Canadian National Railway Company, the Canadian Pacific Railway Company and/or Via Rail Canada Inc.) will not be responsible for any complaints or claims arising from the use of such facilities and/or operations on, over or under the aforesaid right-of-way;
- xiv) *Metrolinx Warning Clause:* "Warning: Any crash wall, security fencing and noise/vibration mitigation measures implemented in accordance with the approved noise/migration studies for these lands (if any) are not to be tampered with or altered and further the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of Metrolinx";
- xv) *M.O.E. Standard Warning Clause:* "Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road/railway traffic may on occasion interfere with some activities of the dwelling occupants, as the sound levels exceed the Municipality's and the Ministry of the Environment's noise criteria. The dwelling units within this Condominium have been supplied with a central air-conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Ministry of the Environment's noise criteria.";
- xvi) *Go Transit & CNR Warning Clause:* "The Canadian National Railway Company ("CNR") and/or Go Transit, or their respective assigns or successors in interest, has or have rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future, including the possibility that the CNR and/or Go Transit or their respective assigns or successors as aforesaid may expand their respective operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings. CNR and Go Transit will not be responsible for any complaints or claims arising from the use of such facilities and/or operations on, over or under the aforesaid rights-of-way.";
- xvii) *Proximity to Gardiner Expressway Warning:* "It is acknowledged that the proximity of the Real Property to the Gardiner Expressway and Lakeshore Blvd. East means that noise, vibration, smoke, exhaust gases, and particulate matter (collectively referred to as the "Interferences") will affect the Real Property, and that notwithstanding the inclusion of control and mitigation features in any improvements to be built on the Real Property, the Interferences will be of concern to, and may interfere with the activities of, occupants of and visitors to the Real Property from time to time, and may constitute a nuisance." The Purchaser agrees to include the foregoing acknowledgement and warning clause in every offer to sell, offer to lease, agreement of purchase and sale, lease, joint venture, partnership, or any similar agreement providing for the use, occupation or ownership of the Real Property or any portion thereof;
- xviii) *Warning to Solicitors:* Solicitors are advised to stress the importance of the above-noted warning clauses when advising their clients on the purchase of units in the development.

2.11 (b) In addition to those special notices, warnings and/or provisions which the Vendor has brought to the Purchaser's attention, as set out above and in Section 2.11 (b) of Schedule "A" annexed hereto, the Purchaser is hereby advised that:

- vi) The Toronto District School Board requires that the following notice or warning clause be included in all agreements of purchase and sale, and in all leases or offers to lease, that are entered into by the Vendor/Declarant with any unit purchaser(s) or unit lessee(s), and also included in all subsequent re-sale offers or agreements of purchase and sale, and all subsequent leases/occupancy agreements, that are hereafter entered into by any unit owner(s) in connection with any sale or lease of any dwelling unit in this Condominium, for a period of 10 years after the registration of this Condominium:

"Despite the best efforts of the Toronto District School Board, sufficient accommodation may not be locally available for all students anticipated from the development area and that students may be accommodated in facilities outside the area, and further, that students may later be transferred

Purchasers agree for the purpose of transportation to school, if bussing is provided by the Toronto District School Board in accordance with the Board's policy, that students will not be bussed home to school, but will meet the bus at designated locations in or outside of the area."

- vii) The Toronto Catholic District School Board requires that the following notice or warning clause be included in all agreements of purchase and sale, and in all leases or offers to lease, that are entered into by the Vendor/Declarant with any unit purchaser(s) or unit lessee(s), and also included in all subsequent re-sale offers or agreements of purchase and sale, and all subsequent leases/occupancy agreements, that are hereafter entered into by any unit owner(s) in connection with any sale or lease of any dwelling unit in this Condominium, for a period of 10 years after the registration of this Condominium:

"The Toronto Catholic District School Board has plans to accommodate Catholic students from this development area in a Catholic school. If no Catholic school is located in the development area, students will be accommodated in a Catholic school in an adjacent area. If the elementary or secondary school which serves this development area is oversubscribed, students from this development may need to be accommodated in portable classrooms or may have to attend a Catholic school located outside the area. The purchaser or tenant acknowledges that school bus service for students, if required, will be from designated school bus stops located within or outside the development area."

- viii) The following warning clause or restriction is required to be included in all agreements of purchase and sale with respect to any unit(s) in this Condominium, namely: "The Purchaser, as the transferee of any unit(s) in this Condominium, for themselves, their heirs, estate trustees, successors and assigns, covenants and agrees that they will not alter the slope of the Condominium lands, nor interfere with any drains established on or within said lands, nor alter the width of any approved driveway(s), except in accordance with the approved lot grading and building siting control plan (or except in accordance with the grading and drainage plans approved by the City of Toronto), without the prior written consent of the City of Toronto thereto, and further agrees to maintain any such alterations so approved by the City of

Toronto. This covenant is for the benefit of all other lands in the plan of subdivision which includes the Lands (or any portion thereof), and shall run with the title to said lands." The Purchaser shall abide by, and comply with, the foregoing restrictions, and expressly acknowledges and agrees that the declaration shall provide that the Condominium Corporation shall be duty bound not to permit the slope of the Lands to be altered, nor permit any drains to be altered or interfered with, nor permit the width of any approved driveways to be altered, except in accordance with the grading and drainage plans (and the building siting control plan) approved by the City of Toronto

- ix) *Noise and vibration levels caused by the Condominium's bank of elevators, garbage chutes, electrical room(s), mechanical equipment, move-in bays and ancillary moving facilities and areas, and/or by the use of the Condominium's indoor recreation facilities and amenities, may occasionally cause noise, vibrations and/or inconvenience to the dwelling occupants. Moreover, as and when other dwelling units in this Condominium are being completed and/or occupied, excessive levels of noise, vibration, dust and/or debris are possible, and same may accordingly temporarily cause noise and inconvenience to the dwelling occupants. Furthermore, at the point in time when any dwelling unit in this Condominium is required to be occupied by the purchaser thereof, there still may be outstanding construction and/or finishing work to be undertaken thereafter by the Declarant to portions of the exterior and/or interior of the condominium building, which may require the continued placement and use of an exterior hoist (for hauling or conveying construction materials, workers and/or debris) that is temporarily anchored to the exterior facade of the building, immediately outside of or near the subject purchaser's dwelling unit, which in turn may block or obstruct the purchaser's view to the outside and/or give rise to an increase in noise and/or vibration levels during construction hours (between 7:00 a.m. and 7:00 p.m.) pending the completion of all construction and finishing work in respect of this Condominium, which obstruction of view, noise and/or vibration may be of concern to the unit purchaser and which may interfere with some activities of the dwelling occupants*

Although the Vendor has used its best efforts to ensure that the foregoing warning clauses are the most up-to-date and current warning clauses required by the various governmental authorities having jurisdiction over the Lands, the Purchaser hereby undertakes and agrees to sign an addendum to this Agreement confirming receipt of any new or revised warning clauses, from time to time, as may be required or mandated by the Vendor or the various governmental authorities or agencies having jurisdiction over the development of the Lands.

- 2.11(f) Notwithstanding anything to the contrary contained in Section 2.11(f) of (or elsewhere within) Schedule "A", the Purchaser hereby acknowledges and agrees that each dwelling unit in this Condominium shall be occupied and used only for residential purposes, in accordance with the provisions of all applicable zoning and building by-laws and regulations of the City of Toronto (with all such applicable zoning and building by-laws, as amended or varied from time to time, being hereinafter collectively referred to as the "**Applicable Zoning By-laws**"), provided however that:

- i) any lease, sub-lease, license or sub-license (as the case may be) of any dwelling unit or group of dwelling units (or with respect to any portion of any dwelling unit), whether in a furnished or unfurnished state, shall in each case be for a minimum initial term or duration of not less than thirty (30) consecutive days, and may occur or be created (and shall be permitted) on any number of occasions, and
- ii) nothing contained in this Condominium's declaration (nor in any by-laws, rules or board resolutions hereafter passed or enacted), shall prevent or in any way restrict the Declarant from completing the building situate on the Real Property and all improvements thereto, nor prevent the Declarant, while owning and seeking to sell any of the dwelling units in this Condominium, as well as any of the dwelling units within any neighbouring condominium project being developed by the Declarant (or by any company related, associated or affiliated with the Declarant) on any portion of the lands bounded by Lake Ontario, Sherbourne Park, Queens Quay East and the Parliament Street Slip (hereinafter collectively referred to as the "**East Bayfront Units**"), or any mortgagee who has a registered mortgage or charge against not less than twenty-five (25%) percent of the dwelling units in this Condominium and who seeks to sell the dwelling units so encumbered by said mortgage or charge, from utilizing any unsold dwelling units in this Condominium for the purposes of creating and/or maintaining therein one or more marketing, sales, construction and/or customer-service office(s), as well as advertising signs and temporary model suites for display purposes (at such locations and having such dimensions and designs as the Declarant or such mortgagee may determine in their respective sole, unfettered and unchallenged discretion), until such time as all of the dwelling units in this Condominium and all of the East Bayfront Units (or such lesser number as the Declarant or any such mortgagee may determine in their respective sole, unfettered, and unchallenged discretion) have been sold and transferred by the Declarant or such mortgagee to each of the respective unit purchasers thereof.

- 2.11(l) Notwithstanding anything to the contrary contained in Section 2.11(l) of (or elsewhere within) Schedule "A", the Purchaser acknowledges and agrees that the Vendor shall be entitled to increase or decrease the total finished area above-grade attributable to any or all of the three components of the Aquabella Project (namely this Condominium, the Daycare Centre and the Retail Component), and/or to increase or decrease the final number of dwelling units, parking units, locker units, hobby/storage room units, shared service units and/or any other ancillary units intended to be created within this Condominium, as well as the right to substitute any level in this Condominium with an alternate floor plate containing a modified design of units and/or a modified number of units on the level [which change(s) would necessitate a re-allocation of each owner's proportionate percentage of the common expenses, and with the first year budget being modified accordingly], together with the right to alter the design, style, size and/or configuration of any of the dwelling units ultimately comprised within this Condominium which have not yet been sold by the Vendor to any unit purchaser(s), all in the Vendor's sole and unchallenged discretion, and the Purchaser expressly acknowledges and agrees to the foregoing, provided that the final budget for the first year following registration of the Condominium is prepared in such a manner so that any such variance in the dwelling/parking/locker/hobby/storage room/shared service and/or other ancillary unit count will not affect, in any material or substantial way, the percentages of common expenses and common interests allocated and attributable to the dwelling, parking, locker and/or hobby/storage room units sold by the Vendor to the Purchaser pursuant to this Agreement and any addendum thereto. Without limiting the generality of the foregoing, the Purchaser further acknowledges and agrees that one or more dwelling units situate adjacent to one another may be combined or amalgamated prior to the registration of the Condominium, in which case the common expenses and common interests attributable to such proposed former units will be incorporated into one figure or percentage in respect of the final combined unit, and the overall dwelling unit count of the Condominium will be varied and adjusted accordingly. None of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Vendor to the Purchaser in connection with this transaction.

- 2.11(o) Notwithstanding anything hereinbefore provided to the contrary, it is expressly acknowledged and agreed that:

- i) The City of Toronto and/or Waterfront Toronto shall be solely and exclusively responsible and liable for the creation and completion of all publicly-accessible and/or public realm amenities and/or facilities that are planned or proposed to be developed upon or within City-owned lands and/or Waterfront Toronto lands in the near future, including without limitation, the proposed light rail transit system running along Queens Quay East, and various landscaped walkways and boulevards, parks, fountains, bicycle paths, lakefront boardwalks and any other public spaces or amenities that are correspondingly intended to ultimately benefit the residents of this Condominium and the surrounding neighbourhood (all of which are hereinafter collectively referred to as the "**Public Amenities**"). However, under no circumstances whatsoever shall the Vendor or its Agent be liable or responsible for any warranties or representations made by or on behalf of the City of Toronto and/or Waterfront Toronto regarding the Public Amenities, nor for any delays in the construction and/or completion of the Public Amenities (or any portion thereof), nor for any changes or modifications (whether substantial or otherwise) that are made or implemented to any of the Public Amenities at any time hereafter by or on behalf of the City of Toronto and/or Waterfront Toronto, nor for any deletion or elimination (in whole or in part) of any of the Public Amenities, nor for any failure to implement and/or complete any or all of the Public Amenities whatsoever, on the express understanding and agreement that all dealings pertaining to (and all work associated with) any of the Public Amenities shall be totally at the discretion of the City of Toronto and/or Waterfront Toronto, and accordingly the Purchaser shall not initiate or pursue (nor be associated or involved in) any claim against the Vendor (or against any other party or parties whatsoever) for compensation or damages, or for an abatement in the Purchase Price (or for a reduction in the occupancy fees so payable), nor seek to terminate this Agreement or attempt to void or vitiate the purchase and sale transaction contemplated hereunder, due to (or as a result of) any such delays in the construction and/or completion of the Public Amenities (or any portion thereof), or due to any changes or modifications that are made or implemented to any of the Public Amenities at any time hereafter, or due to the deletion or elimination (in whole or in part) of any of the Public Amenities, including the failure on the part of the City of Toronto and/or Waterfront Toronto to implement and/or complete any or all of the Public Amenities whatsoever, no matter how significant or substantial the negative or prejudicial impact thereof may be, under any circumstances whatsoever,
- ii) Parking units, locker units, hobby/storage room units and bicycle storage facilities will be located within the underground parking garage of this Condominium, below grade, and correspondingly situate below the water table. Notwithstanding the implementation of prudent and customary industry construction practices for the construction of portions of buildings below the water table, the occurrence of minor shrinkage cracks may nevertheless result and be evident in portions of the below-grade structure of this Condominium, with the potential for resulting dampness or minor leakages. The periodic maintenance and repairs of such cracks by the Condominium Corporation shall be considered to be part of the ongoing maintenance responsibilities of the Condominium Corporation, and the cost of carrying out any such maintenance or repair work shall

- comprise part of the common expenses. Furthermore, the Purchaser is hereby advised to store any objects, materials, personal property or contents within any locker unit or hobby/storage room unit at least 30 centimetres above the floor or bottom of any locker unit or hobby/storage room unit, as the case may be (ie. in an elevated location), and it is expressly understood and agreed that the Vendor shall have no responsibility or liability to the Purchaser whatsoever in connection with any damage to any objects, materials, personal property or contents placed or stored within any locker unit(s) or hobby/storage room unit(s) caused by any water leakage or dampness (howsoever originated or created), and the Purchaser shall not make or pursue any claim against the Vendor (nor against any other party) for compensation, or for an abatement in the Purchase Price (or the occupancy fees so payable), and/or for damages in connection with any such loss or damage occasioned to any personal property or contents so stored within any locker unit or hobby/storage room unit;
- iii) In the event that an in-suite private elevator has been installed by the Vendor within any two-storey dwelling unit in this Condominium, and correspondingly services said dwelling unit exclusively, then it is hereby understood and agreed that the said elevator shall be maintained and repaired by or on behalf of the owner of said dwelling unit (and not by the Condominium Corporation), all at such owner's sole cost and expense, and such in-suite elevator maintenance and repair costs shall not comprise part of the common expenses (but rather shall be in addition thereto);
- iv) Noise, dust and vibrations from any nearby elevator bank(s), garbage and/or recycling room(s), garage entry door(s), loading dock(s), move-in bay(s), recreational amenities and/or facilities, any on-site hydro electric vault or transformer, the Condominium's mechanical equipment and any corresponding service room(s) housing or containing any mechanical, electrical, plumbing, heating and/or cooling equipment, fixtures and ancillary installations, as well as noise from the adjacent Daycare Centre (and the outdoor playground area on level 2 thereof) may cause this Condominium's noise and/or vibration levels to exceed a comfortable level and may occasionally interfere with some activities of the dwelling occupants in this Condominium. However, despite any or all of the foregoing noise, odour, vibration and visual interference concerns (as well as concerns regarding the dust and debris caused or contributed by any construction and completion work in respect of the balance of this Condominium), the Purchaser shall not make or pursue any claim against the Vendor (nor against any other party) for compensation, an abatement in the Purchase Price (or the occupancy fees so payable), for damages or otherwise, nor initiate or pursue any claim, action or proceeding against the Vendor (nor against any other party or parties whomsoever) by reason of the foregoing noise, odours, vibration, obstruction of view, dust and/or debris concerns, or because of any inconvenience to the Purchaser caused thereby, no matter how significant or substantial the interference may be or how long same may have to be endured, and the Purchaser shall not initiate or pursue any proceeding to enjoin or restrain any of the foregoing activities which may cause any such noise, odours, vibration, obstruction of view, dust, debris and/or inconvenience, under any circumstances whatsoever;
- v) Several parking units within this Condominium may ultimately be completed as Electrical Parking Units, with a standard electrical outlet installed as an appurtenance thereto, in order to accommodate (and correspondingly service or charge) any electric vehicle that may be owned or operated by the owner or tenant of any such parking unit. If such is the case, then a separate electricity check meter will be installed as an appurtenance to the Electrical Parking Unit, in order to measure and confirm the cost of the electricity consumed or utilized by any electric vehicle(s) parked from time to time within any such Electrical Parking Unit, on a periodic basis, and the owner of any Electrical Parking Unit shall accordingly be responsible for paying for the cost of such electricity consumption (in addition to the common expenses attributable to his or her Electrical Parking Unit), pursuant to the invoices periodically issued to the owner of the Electrical Parking Unit by the Condominium's Utility Monitor (or by any other third party contractor retained by the Condominium Corporation in connection with the sub-metering, servicing and reading of the check meters or sub-meters appurtenant to each of the Electrical Parking Units within this Condominium). Moreover, all arrears of any check-metered electricity consumption in respect of any Electrical Parking Unit that arises because any of the invoices issued by the Utility Monitor in connection therewith have not been paid by the owner of the Electrical Parking Unit, as and when any such invoices are due and payable shall, to the extent permitted by law, thereupon be deemed and construed to constitute common expenses (and shall thereby specifically become common expense arrears), and may thereafter be collected by the Condominium Corporation against the owner of the Electrical Parking Unit in the same manner (and to the same extent, and with all the same rights and powers) as any other common expenses, and accordingly all such arrears shall properly constitute the subject matter of a common expense arrears lien, and may be enforceable by way of such lien (ie. with all of the super priority rights applicable thereto, as provided by or under the Act) against the delinquent owner's Electrical Parking Unit;
- vi) In an effort to reduce the incidence or frequency of birds colliding into this Condominium, the Vendor will construct and complete this Condominium in compliance with the bird-collision-deterrence requirements of the Toronto Green Building Standards imposed by the City of Toronto with respect to Tier 1 type buildings, and accordingly it is acknowledged and agreed that the exterior windows of this Condominium (including glass balcony railings, if any) on any or all of the levels of this Condominium (particularly the windows situate directly above any open landscaped terrace or other landscaped area) may contain or comprise special bird-friendly glazing (intended to mute or dim reflections of the glass surface, and containing visual markers applied or affixed to the exterior glazing or glass facade), and the Purchaser shall accordingly be estopped and precluded from hereafter making or pursuing any complaint or claim against the Vendor, the City of Toronto or any other parties as a consequence of such special window glazing, if same is ultimately situate within (or comprises part of) the Purchaser's Unit;
- vii) This Condominium has been designed such that: (A) four designated elevators will access and service all levels of this Condominium (namely two for the east tower comprising part of this Condominium, and traversing from and between level D to level 11 inclusive, and two for the north tower comprising part of this Condominium, and traversing from and between level D to level 12 inclusive), with another elevator designated as a move-in or service elevator (traversing between level B and level 1) to be used for the moving of furniture, bicycles and/or personal belongings in and out of this Condominium, in conjunction with a separate move-in room located on level B, together with a shared outdoor loading area designated as unit 6 on level 1 (and comprising the shared loading unit that will ultimately be shared and used by this Condominium, the Daycare Centre and the Retail Component), along with another designated elevator intended to be used for the purpose of transporting the bicycles of the respective residents of this Condominium from each of levels A, B, C and D to level 1, and another service elevator intended for the transport of the Condominium's garbage (and traversing between level B and level 1); (B) the main entrance lobby (or the east lobby) of this Condominium will be located at the south-east corner of the Condominium, near the intersection of Merchants Wharf and Edgewater Drive, and accessed directly from Merchants Wharf, and said lobby will contain a concierge station that is intended to be monitored and controlled by on-site and on-duty personnel; (C) a separate smaller lobby (or the west lobby) serving this Condominium will be located at the north-west corner of the Condominium, near the intersection of Edgewater Drive and Kanadario Lane, and accessed directly from Kanadario Lane, and said lobby will be serviced by a "virtual electronic concierge", namely a remote surveillance service that will be provided to this Condominium through the use of a computerized camera network and a flat panel display or monitor, and ancillary equipment, located within the confines of said lobby, and which surveillance shall be conducted by and from the on-duty concierge physically situate at (and monitoring) the main concierge station located within the main entrance lobby of this Condominium; and (D) notwithstanding anything herebefore provided (regarding the on-duty concierge) to the contrary, it is understood and agreed that the concierge services for this Condominium may ultimately be provided, either partially or totally, by means of an off-site virtual electronic concierge system/service;
- viii) This Condominium will have one or more resident bicycle storage areas and one or more visitor bicycle storage areas situate on levels A, B, C and D and comprising part of the common elements, having a total resident bicycle storage capacity of approximately 162 bicycles in the aggregate, and a total visitor bicycle storage capacity of approximately 18 bicycles in the aggregate, and all bicycle spaces within any such bicycle storage areas shall be assigned and allocated on a "first come, first served" basis, by the Condominium Corporation or its property manager. Bicycles shall be permitted to be transported along, upon and within the common element lobbies, elevators, hallways and corridors of this Condominium, without having to carry the entire bicycle in the air in an effort to avoid any bicycle tire(s) touching the ground or the floor surface, and despite the potential for staining or damaging the common element flooring or carpeting of this Condominium;
- ix) In the course of developing and completing this Condominium, a section 37 density bonus/development agreement may have already been entered into (or may hereafter be entered into) with the City of Toronto, which pertains to the provision of public benefits (or cash in lieu thereof) in exchange for increases in the height and/or density of this Condominium, and which may also require the installation of public art within the outdoor common element areas of this Condominium, or within the neighbouring vicinity of this Condominium. The aforementioned public art may take the form of sculptured artwork and/or sculptured landscaping features, statues, patterned paving stones, etc. that will be designed and created by (or in collaboration with) an artist selected by the City of Toronto's Chief Planner and approved by the Council of the City of Toronto (hereinafter referred to as the "Public Art"). Following its completion and installation, the Public Art must be clearly visible by the general public at all times (ie. from public sidewalks or walkways or publicly-accessible spaces), and the Public Art may have to be maintained and repaired (as and when required) by the Condominium Corporation at its sole cost and expense, in accordance with the requirements and guidelines imposed by the City of Toronto, through the Toronto Public Art Commission or its delegate (with all costs incurred by the Condominium Corporation in connection with the maintenance and repair of the Public Art, if applicable, to comprise part of the common expenses). If the aforementioned section 37 agreement does, in fact, require the installation of Public Art, then once installed the Public Art shall,

not be removed, relocated, altered or modified in any material respect, without the prior approval of the City of Toronto's Chief Planner and the Toronto Public Art Commission. If such Public Art is so installed, then the Purchaser hereby agrees not to raise or pursue any challenge or objection whatsoever to (or in connection with) the Public Art (whether with respect to its design, composition, configuration, location or otherwise), nor with respect to any costs incurred (or to be incurred) by the Condominium Corporation in connection with the maintenance and/or repair of the Public Art.

- x) In addition to the foregoing noise and/or vibration warning clauses, the Purchaser hereby expressly acknowledges being advised that:
- A. those purchasers of any of the dwelling units on levels 1, 2 and 3, each of which is situate directly beside, above or near either of the entrance lobbies to this Condominium, or above or near the loading areas, move-in rooms or garbage holding rooms located on level 1, or situate directly beside, above or near any of the ground floor retail stores comprising part of the Retail Component (including any outside patios or terraces used by any restaurant or other food service operations comprising part of the Retail Component), may endure excessive or disturbing noises, vibrations and/or odours emanating from the use and enjoyment of said areas on level 1;
 - B. those purchasers of any of the dwelling units on levels 1, 2, 3 and 4, each of which is situate directly beside, above or near the Daycare Centre (and near the Daycare Centre's outdoor playground area situate on level 2 thereof), may endure excessive or disturbing noises, vibrations and/or odours emanating therefrom;
 - C. those purchasers of any of the dwelling units on levels 1 and/or 2 situate above this Condominium's recreational amenity areas or facilities located on level A (including this Condominium's fitness room, theatre, and change/steam rooms), as well as those purchasers of any of the dwelling units on levels 6, 7 or 8 situate directly beneath, beside or above this Condominium's recreational amenity areas or facilities located on level 7 (including this Condominium's private bar, lounge, dining room and catering kitchen, as well as an outdoor terrace and outdoor swimming pool), may endure excessive or disturbing noises, odours and/or vibrations emanating from the use and enjoyment of said recreational amenity areas or facilities; and
 - D. those purchasers of any of the dwelling units on levels 11 and 12, each of which is situate directly beneath, beside, across or near (or in the neighbouring vicinity of): (i) any mechanical room(s), emergency generator room and/or elevator machine room(s) and/or any other area or room which houses or contains any mechanical, electrical, plumbing, heating and/or cooling equipment, fixtures and ancillary installations serving this Condominium, the Daycare Centre and/or the Retail Component; and/or (ii) any rooftop mechanical equipment, fixtures, systems and/or installations servicing this Condominium, Daycare Centre and/or the Retail Component (including the communication control unit designated as unit 1 on level 14), may endure excessive or disturbing noises, odours and/or vibrations emanating therefrom;

and the Purchaser hereby expressly agrees that no claim or cause of action shall be initiated or pursued against the Vendor and/or its agents and representatives for any compensation or abatement in the Purchase Price (or for any abatement in the occupancy fees so payable) as a consequence of any or all of the foregoing matters hereinbefore outlined, nor for any damages or inconvenience arising therefrom or caused thereby, no matter how extensive or excessive any of the foregoing noise, vibrations, odours, emissions and/or interferences so disclosed may be, and no matter how long same may endure or negatively impact the Purchaser.

- xi) There are various shared facilities, services, areas and/or building components (including fixtures and/or equipment) comprising part of the overall Project that are intended to serve or benefit this Condominium and the Daycare Centre, namely:

- A. the central fluid cooling system;
- B. the boilers (for heating) and ancillary hot water storage tanks, and the shared boiler room unit; and
- C. the electrical transformer and distribution system, together with the shared electrical room unit;

(hereinafter collectively referred to as the "**Two-Way Shared Facilities**"). The cost of operating, insuring, maintaining and repairing the Two-Way Shared Facilities (hereinafter collectively referred to as the "**Two-Way Shared Facilities Costs**") shall also include the cost of window cleaning (in respect of both the Condominium and the Daycare Centre). The Two-Way Shared Facilities Costs shall be borne and paid for by each of the Condominium and the Daycare Centre Owner on a pro-rata basis, based on the percentages reflecting their respective or relative total finished areas above grade (hereinafter referred to as their respective "**Proportionate Share of the Two-Way Shared Facilities Costs**"). It is presently intended that this Condominium will contain or comprise a total finished area above-grade of approximately 27,823 square meters, and that the Daycare Centre will contain or comprise a total finished area above-grade of approximately 784 square meters. Accordingly, this Condominium's Proportionate Share of the Two-Way Shared Facilities Costs will amount to approximately 97.26%, and the Daycare Centre Owner's Proportionate Share of the Two-Way Shared Facilities Costs will amount to approximately 2.74% thereof, on the express understanding that the foregoing percentages or proportions are subject to adjustment hereafter, depending on the final total finished area above-grade of each of the Condominium and the Daycare Centre respectively, as conclusively determined by the Vendor's architect as at the date of registration of this Condominium.

- xii) There are various shared facilities, services, areas and/or building components (including fixtures and/or equipment) comprising part of the overall Project that are intended to serve or benefit this Condominium, the Retail Component and the Daycare Centre, namely:

- A. the emergency generator;
- B. the storm and sanitary sump pits, and the elevator sump pits;
- C. the shared sprinkler/meter room (containing incoming water meters and the fire pump, and ancillary equipment);
- D. the telecom room containing telecommunication conduits, wiring and appurtenant equipment;
- E. the incoming water, gas, and electrical servicing pipes, along with the storm and sanitary sewer pipes, emanating from the street to the Condominium's parking garage and/or basement area, including the incoming water meter room;
- F. the outdoor shared loading bay or area;
- G. the shared storm water storage tank unit; and
- H. the Ground Water Filtration System;

(hereinafter collectively referred to as the "**Three-Way Shared Facilities**"). The cost of operating, insuring, maintaining and repairing the Three-Way Shared Facilities (hereinafter collectively referred to as the "**Three-Way Shared Facilities Costs**") shall also include the CPU Compliance Costs, the Ground Water Discharge Filtration Costs, and the cost of insuring, maintaining and repairing all Shared Roadways and walkways leading into and out of the Project (including the outdoor shared loading area and the Public Walkway, but excluding Edgewater Drive which will be governed under a separate shared facilities agreement), and keeping same free and clear of snow, ice and debris. The Three-Way Shared Facilities Costs shall be borne and paid for by each of the Condominium, the Retail Component Owner and the Daycare Centre Owner on a pro-rata basis, based on the percentages reflecting their respective or relative total finished areas above grade (hereinafter referred to as their respective "**Proportionate Share of the Three-Way Shared Facilities Costs**"). It is presently intended that this Condominium will contain or comprise a total finished area above-grade of approximately 27,823 square meters, the Retail Component will contain or comprise a total finished area above-grade of approximately 938 square meters, and that the Daycare Centre will contain or comprise a total finished area above-grade of approximately 784 square meters. Accordingly, this Condominium's Proportionate Share of the Three-Way Shared Facilities Costs will amount to approximately 94.18%, the Retail Component Owner's Proportionate Share of the Three-Way Shared Facilities Costs will amount to approximately 3.17%, and the Daycare Centre Owner's Proportionate Share of the Three-Way Shared Facilities Costs will amount to approximately 2.65% thereof, on the express understanding that the foregoing percentages or proportions are subject to adjustment hereafter, depending on the final total finished area above-grade of each of the Condominium, the Retail Component and the Daycare Centre respectively, as conclusively determined by the Vendor's architect as at the date of registration of this Condominium.

- xiii) Each of the Condominium, the Retail Component Owner and the Daycare Centre Owner shall be solely responsible for insuring, maintaining and repairing their own respective exterior facades (namely all exterior walls, roofs, ceilings, floors, windows and doors), all at their respective sole cost and expense, provided however that:

- A. the exterior facades must at all times be maintained and repaired in a first class manner (commensurate with comparable buildings in the City of Toronto having a similar or comparable design, type, composition, quality and age to that of the Project); and

- B. any additions, alterations or improvements to any portion of the exterior facade of the Condominium and/or the Daycare Centre that are visible from the exterior, including the painting of any exterior building component (or the hanging or affixing of any material from the underside surface or ceiling of any exterior building component) that is visible from the exterior, as well as any changes or alterations affecting the integrity of the skin or surface of the Condominium building or the Daycare Centre, or its substrate and/or insulation value, must first be approved by the Two-Way Shared Facilities Committee (as hereinafter defined), provided however that the foregoing shall not in any way restrict, limit or interfere with any of the outdoor playground equipment and/or facilities that may be placed or utilized within the confines of the outdoor playground area situate on level 2 of the Daycare Centre from time to time, nor the bolting or affixation of any such equipment or facilities to the floor of the outdoor playground area.
- xiv) The operation, use, insurance, maintenance and/or repair of the Two-Way Shared Facilities (or any portion thereof), including the budgeting (on an annual basis) of the Two-Way Shared Facilities Costs, and the intended design or impact of any addition, alteration or improvement to any portion of the exterior facade of the Condominium and/or the Daycare Centre, shall be governed and administered by a committee, for and on behalf of the Condominium and the Daycare Centre Owner (hereinafter referred to as the **"Two-Way Shared Facilities Committee"**). The Two-Way Shared Facilities Committee shall be comprised of 7 members, 5 members of which shall be appointed by the Condominium, and 2 of which shall be appointed by the Daycare Centre Owner, and all decisions of the Two-Way Shared Facilities Committee shall be determined by a majority vote of all members thereof who are present, in person or represented by proxy, at any meeting thereof.
- xv) The operation, use, insurance, maintenance and/or repair of the Three-Way Shared Facilities (or any portion thereof), including the budgeting (on an annual basis) of the Three-Way Shared Facilities Costs, and the responsibility for insuring, maintaining and repairing all Shared Roadways and walkways leading into and out of the Project (including the outdoor shared loading area and the Public Walkway, but excluding Edgewater Drive which will be governed under a separate shared facilities agreement), and the responsibility for keeping same free and clear of snow, ice and debris, shall be governed and administered by a committee, for and on behalf of the Condominium, the Retail Component Owner and the Daycare Centre Owner (hereinafter referred to as the **"Three-Way Shared Facilities Committee"**). The Three-Way Shared Facilities Committee shall be comprised of 9 members, 5 members of which shall be appointed by the Condominium, 2 of which shall be appointed by the Retail Component Owner, and 2 of which shall be appointed by the Daycare Centre Owner, and all decisions of the Three-Way Shared Facilities Committee shall be determined by a majority vote of all members thereof who are present, in person or represented by proxy, at any meeting thereof.
- xvi) All of the foregoing mutual use and cost-sharing arrangements in respect of the Two-Way Shared Facilities and the Three-Way Shared Facilities respectively, shall be detailed in a mutual easement and cost sharing agreement or reciprocal agreement that will be entered into by and amongst this Condominium, the Retail Component Owner and the Daycare Centre Owner shortly after the registration of this Condominium, with the Vendor entering into same in its capacity as the owner of the Retail Component (hereinafter referred to as the **"Shared Facilities Agreement"**). **By-law 2 of this Condominium will be specifically enacted in order to authorize this Condominium's execution of the Shared Facilities Agreement**, along with the performance and fulfilment of this Condominium's obligations thereunder, including the obligation to pay this Condominium's Proportionate Share of the Two-Way Shared Facilities Costs and this Condominium's Proportionate Share of the Three-Way Shared Facilities Costs, as hereinbefore outlined. The Shared Facilities Agreement shall also set out the respective duties and responsibilities of the Two-Way Shared Facilities Committee and the Three-Way Shared Facilities Committee, and the budgeting of the Two-Way Shared Facilities Costs and the Three-Way Shared Facilities Costs respectively on an annual basis, and outline provisions for resolving disputes between or amongst any of the Contributors by mediation and/or binding arbitration, and shall contain such other provisions as may be agreed to by the parties thereto. The Two-Way Shared Facilities and the Three-Way Shared Facilities shall be managed by this Condominium's property manager under the direction of the Two-Way Shared Facilities Committee and the Three-Way Shared Facilities Committee (as the case may be).
- xvii) Notwithstanding anything contained in this Agreement to the contrary, it is understood and agreed that all buildings, structures, facilities and/or installations (and all future additions, alterations and/or improvements thereto or in connection therewith) now or hereafter comprising:
- A. part of the Two-Way Shared Facilities or the Three-Way Shared Facilities, as the case may be (including all support structures forming part of the Two-Way Shared Facilities or the Three-Way Shared Facilities and which provide support to any of the other components of the Project), shall be properly maintained and kept in a good state of repair and condition at all times, by the Two-Way Shared Facilities Committee or the Three-Way Shared Facilities Committee that governs or oversees same (as the case may be); and
- B. part of each Contributor's respective lands or common elements (including all support structures forming part of its respective lands or common elements which provide support to any of the other components of the Project), shall be properly maintained and kept in a good state of repair and condition at all times, by such Contributor who owns or controls same;
- all in accordance with a "first class" standard of building maintenance and repair practices and procedures prevailing in the City of Toronto for (or applicable to) buildings, structures, facilities and/or installations that are similar or comparable in type, design, composition, quality and age to that of the Project. In addition, each of the Contributors shall be obliged to restore and/or rebuild any buildings, structures, facilities and/or installations (or any portions thereof) that have been damaged or destroyed, in whole or in part (whether by any insured loss or otherwise), as soon as reasonably possible after any such damage or destruction has occurred (weather conditions, and the availability of labour, materials and/or equipment permitting), all in a good and workmanlike manner, in accordance with all applicable laws, building codes, property standards and required permits, and in accordance with a "first class" standard of building and/or repair practices and procedures prevailing in the City of Toronto for (or applicable to) buildings, structures, facilities and/or installations that are similar or comparable in design, type, composition, quality and age to that of the Project. The Shared Facilities Agreement entered into by the three Contributors will reflect the foregoing.
- xviii) The operation, insurance, maintenance and repair of the Shared Roadway shall be governed by a separate agreement entered into by the Condominium, the Retail Component Owner and the Daycare Centre Owner shortly after the registration of this Condominium, with the Vendor entering into same in its capacity as the owner of the Retail Component (hereinafter referred to as the **"Shared Roadway Agreement"**). All decisions pertaining to the manner in which the Shared Roadway is operated, insured, maintained and/or repaired shall be governed and administered by a committee, for and on behalf of the Condominium, the Retail Component Owner and the Daycare Centre Owner (hereinafter referred to as the **"Shared Roadway Committee"**). The Shared Roadway Committee shall initially be comprised of 6 members, 2 members of which shall be appointed by the Condominium, 2 of which shall be appointed by the Retail Component Owner, and 2 of which shall be appointed by the Daycare Centre Owner, and all decisions of the Shared Roadway Committee shall be determined by a majority vote of all members thereof who are present, in person or represented by proxy, at any meeting thereof. The composition of the Shared Roadway Committee shall automatically be increased by 2 additional members appointed by each of the Neighbouring Owners who executes a counterpart to the Shared Roadway Agreement and thereby commits to contribute towards the Shared Roadway Costs (with such party or entity being hereinafter referred to as a **"Contributing Neighbour"**). The Shared Roadway Costs shall be borne and paid for initially by each of the Condominium, the Retail Component Owner and the Daycare Centre Owner, on a pro-rata basis, based on the percentages reflecting their respective or relative total finished areas above grade (hereinafter referred to as their respective **"Proportionate Share of the Shared Roadway Costs"**), notwithstanding that the Shared Roadway may be traversed and utilized by the Neighbouring Owners and others (including the general public) sometime in the future, unless and until any of the Neighbouring Owners has formally agreed to participate in a cost-sharing arrangement with all of the Contributors with respect to the Shared Roadway, based on the same formula for sharing the Shared Roadway Costs as outlined above [and in turn, each of the three Contributors shall be required to contribute to the shared roadway costs that are attributable to the Westerly Edgewater Section, pursuant to the provisions of a counterpart to an easement and cost-sharing agreement pertaining to the Westerly Edgewater Section (the **"Aquavista Roadway Agreement"**) entered into with the Aquavista Condominium, the owner of the Aquavista Retail Component, the owner of the Artscape Project and the owner of the Aquavista Commercial Parking Garage, in accordance with a cost-sharing formula predicated on (and reflecting) their respective or relative total built areas (as hereinbefore defined), as a prerequisite to their ability and entitlement to use, and drive over, the Westerly Edgewater Section]. It is presently intended that this Condominium will contain or comprise a total finished area above-grade of approximately 27,823 square meters, the Retail Component will contain or comprise a total finished area above-grade of approximately 938 square meters, and that the Daycare Centre will contain or comprise a total finished area above-grade of approximately 784 square meters. Accordingly, this Condominium's Proportionate Share of the Shared Roadway Costs will initially amount to approximately 94.18%, the Retail Component Owner's Proportionate Share of the Shared Roadway Costs will initially amount to approximately 3.17%, and the Daycare Centre Owner's Proportionate Share of the Shared Roadway Costs will initially amount to approximately 2.65% thereof, on the express understanding that the foregoing percentages or proportions are subject to adjustment hereafter, depending on the final total finished area above-grade of each of the Condominium, the Retail Component and the Daycare Centre respectively, as conclusively determined by the Vendor's architect as at the date of registration of this Condominium. **By-law 3 of this Condominium will be specifically enacted in order to authorize this**

Condominium's execution of the Shared Roadway Agreement, along with the performance and fulfilment of this Condominium's obligations thereunder, including the obligation to pay this Condominium's Proportionate Share of the Shared Roadway Costs, as hereinbefore outlined. The Shared Roadway Agreement shall also set out the respective duties and responsibilities of the Shared Roadway Committee, and the budgeting of the Shared Roadway Costs on an annual basis, and outline provisions for resolving disputes between or amongst any of the Contributors by mediation and/or binding arbitration, and shall contain such other provisions as may be agreed to by the parties thereto. The Shared Roadway Agreement will expressly provide for the following, namely:

- A. The Shared Roadway Agreement will permit Hines Canada Management II ULC, or any company related, associated or affiliated therewith (hereinafter referred to as "**Hines**"), in its capacity as the future ground lessee of the C-1 Lands and the C-2 Lands situate to the north of Edgewater Drive and comprising Parts 5 and 9 on Reference Plan 66R-28781 [upon which the C-1 Project and the C-2 Project will be developed sometime hereafter], to complete, alter and/or re-align the curbs, sidewalks, roadway areas and/or landscaping features situate within the northerly 3.9 metres of that portion of Edgewater Drive situate to the south of each of the C-1 Lands and the C-2 Lands, comprising Parts 2 and 10 on Reference Plan 66R-28781, as well as the northerly 3.9 metres of Edgewater Drive situate to the south of the C-2 Lands comprising part of Part 3 on Reference Plan 66R-28781 (and which 3.9 metre strip along the northerly perimeter of Edgewater Drive, adjacent to the south of the C-1 Lands and the C-2 Lands as aforesaid, is hereinafter collectively referred to as the "**North Edgewater Strip**"), as soon as final site plan approval has been granted by the City of Toronto in connection with the development of the C-1 Project on the C-1 Lands, and the development of the C-2 Project on the C-2 Lands, in order to more properly align and configure the North Edgewater Strip with the driveways, walkways, entrances, exits and/or loading areas comprising part of the C-1 Project and the C-2 Project respectively, all at Hines' sole cost, risk and expense, and undertaken by Hines in its capacity as the authorized agent of this Condominium. It is further acknowledged and agreed that within the North Edgewater Strip, only a temporary asphalt surface may be installed in lieu of pavers, and the installation of tree cells and other landscaping features (including the placement or installation of permanent surface landscape furniture) may be deferred pending the construction and completion of the C-1 Project on the C-1 Lands, and the C-2 Project on the C-2 Lands, if the foregoing is permitted by the City of Toronto in connection with the completion and registration of this Condominium, in an effort to avoid or minimize "throw-away" costs resulting from the removal of said features or elements in the course of the aforementioned realignment and re-configuration. This Condominium shall correspondingly be obliged to appoint Hines to carry out the foregoing as its agent, as and when so requested by the Vendor or Hines, and this Condominium shall also be obliged to apply for any required amendment to the approved site plan for this Condominium, if and when the City of Toronto determines that same is necessary, in order to re-align and/or re-configure portions of the North Edgewater Strip with the driveways, walkways, entrances, exits and/or loading areas comprising part of the C-1 Project on the C-1 Lands and the C-2 Project on the C-2 Lands respectively, and this Condominium shall correspondingly be obliged to appoint Hines as its authorized agent to pursue, process and implement said application for any required amendment to the approved site plan for this Condominium, all at Hines' sole cost and expense, on the express understanding and agreement that the precise location of all such curb cuts, driveways, walkways, entrances, exits and/or loading areas, emanating from (or ultimately connected to or with) the North Edgewater Strip (or any portion thereof), as well as the precise location of all landscaping treatments and features associated therewith, shall be determined by the City of Toronto in its sole and unfettered discretion, and Hines will merely be carrying out the foregoing alteration work in accordance with the directions and/or requirements imposed by the City of Toronto with respect to same. It is further understood and agreed that the foregoing proposed future alterations to the North Edgewater Strip, comprising part of the common elements of this Condominium, shall be made or implemented in accordance with the provisions of section 97(2)(a) of the Act [inasmuch as the aforementioned alterations will be undertaken in order to comply with the provisions of the Shared Roadway Agreement (and which agreement shall, for all purposes, be deemed and construed to be an agreement entered into pursuant to section 113 of the Act)], and shall also be expressly authorized by by-law 3 of this Condominium. To facilitate the construction and completion of the C-1 Project on the C-1 Lands, as well as the construction and completion of the C-2 Project on the C-2 Lands, and any future maintenance, repairs, renovations and/or alterations thereto, this Condominium will be obliged to grant Hines the following rights and entitlements, namely:
1. the right to install (and to permanently encroach, below grade) within and beneath the North Edgewater Strip, the shoring system for the C-1 Project and the shoring system for the C-2 Project, including without limitation, the installation and encroachment of caissons, tiebacks, anchors and h-piles, provided and so long as same do not permanently interfere with any vehicular traffic utilizing the balance of Edgewater Drive;
 2. the right to temporarily block (and prevent or restrict) pedestrian and vehicular access over, upon or across the North Edgewater Strip, during and throughout the construction of the C-1 Project on the C-1 Lands, and during and throughout the construction of the C-2 Project on the C-2 Lands, including the right to erect and maintain construction hoarding along the 3.9 metre line delineating the southerly limit of the North Edgewater Strip during and throughout said construction [which construction period is presently estimated to endure for approximately thirty (30) consecutive months, for each of the C-1 Project and the C-2 Project];
 3. the right to temporarily close (and prevent or restrict) pedestrian and vehicular access over, upon or across the northerly driving lane of Edgewater Drive, for excavation, concrete and/or steel trailer deliveries to and from the C-1 Lands during and throughout the construction of the C-1 Project, and to and from the C-2 Lands during and throughout the construction of the C-2 Project;
 4. the right to swing an overhead crane above and through the entire airspace of Edgewater Drive (and not just through the airspace of the North Edgewater Strip), during and throughout the construction of the C-1 Project on the C-1 Lands, and during and throughout the construction of the C-2 Project on the C-2 Lands; and
 5. the right, at any time following the respective completion of the C-1 Project and the C-2 Project, to temporarily block (and prevent or restrict) pedestrian and vehicular access over, upon or across the North Edgewater Strip, during (and in connection with) any maintenance or repair work to the C-1 Project (including any future renovations or alterations thereto), and during (and in connection with) any maintenance or repair work to the C-2 Project (including any future renovations or alterations thereto); and
- B. The Shared Roadway Agreement will permit the City of Toronto or its designated agent or appointee (hereinafter referred to as the "**City's Designate**"), in connection with the development of the R-6 Project on the R-6 Lands, to complete, alter and/or re-align the curbs, sidewalks, roadway areas and/or landscaping features situate within the easterly and northerly 3.9 metres of that portion of Edgewater Drive situate to the west and south of the R-6 Lands, comprising part of Part 3 on Reference Plan 66R-28781 (and which 3.9 metre strip situate adjacent to the west and south of the R-6 Lands as aforesaid, is hereinafter collectively referred to as the "**East/North Edgewater Strip**"), as soon as final site plan approval has been granted by the City of Toronto in connection with the development of the R-6 Project on the R-6 Lands, in order to more properly align and configure the East/North Edgewater Strip with the driveways, walkways, entrances, exits and/or loading areas comprising part of the R-6 Project developed on the R-6 Lands, all at the sole cost, risk and expense of the City of Toronto or the City's Designate, and undertaken by the City's Designate in its capacity as the authorized agent of this Condominium. It is further acknowledged and agreed that within the East/North Edgewater Strip, only a temporary asphalt surface may be installed in lieu of pavers, and the installation of tree cells and other landscaping features (including the placement or installation of permanent surface landscape furniture) may be deferred pending the construction and completion of the R-6 Project on the R-6 Lands, if the foregoing is permitted by the City of Toronto in connection with the completion and registration of this Condominium, in an effort to avoid or minimize "throw-away" costs resulting from the removal of said features or elements in the course of the aforementioned realignment and re-configuration. This Condominium shall correspondingly be obliged to appoint the City's Designate to carry out the foregoing as its agent, as and when so requested by the Vendor, the City of Toronto or the City's Designate, and this Condominium shall also be obliged to apply for any required amendment to the approved site plan for this Condominium, if and when the City of Toronto determines that same is necessary, in order to re-align and/or re-configure portions of the East/North Edgewater Strip with the driveways, walkways, entrances, exits and/or loading areas comprising part of the R-6 Project being developed on the R-6 Lands, and this Condominium shall correspondingly be obliged to appoint the City's Designate as its authorized agent to pursue, process and implement said application for any required amendment to the approved site plan for this Condominium, all at the sole cost and expense of the City of Toronto or the City's Designate, on the express understanding and agreement that the precise location of all such curb cuts, driveways, walkways, entrances, exits and/or loading areas, emanating from (or ultimately connected to or with) the East/North Edgewater Strip (or any portion thereof), as well as the precise location of all landscaping treatments and features associated therewith, shall be determined by the City of Toronto in its sole and unfettered discretion, and the City's Designate will merely be carrying out the foregoing alteration work in accordance with the directions and/or requirements imposed by the City of Toronto with respect to same. It is further understood and agreed that the foregoing proposed future alterations to the East/North Edgewater Strip, comprising part of the common elements of this Condominium, shall be made or implemented in accordance with the provisions of

section 97(2)(a) of the Act [inasmuch as the aforementioned alterations will be undertaken in order to comply with the provisions of the Shared Roadway Agreement (and which agreement shall, for all purposes, be deemed and construed to be an agreement entered into pursuant to section 113 of the Act)], and shall also be expressly authorized by by-law 3 of this Condominium. To facilitate the construction and completion of the R-6 Project on the R-6 Lands, and any future maintenance, repairs, renovations and/or alterations thereto, this Condominium will be obliged to grant the City's Designate the following rights and entitlements, namely:

1. the right to install (and to permanently encroach, below grade) within and beneath the East/North Edgewater Strip, the shoring system for the R-6 Project, including without limitation, the installation and encroachment of caissons, tiebacks, anchors and h-piles, provided and so long as same do not permanently interfere with any vehicular traffic utilizing the balance of Edgewater Drive;
 2. the right to temporarily block (and prevent or restrict) pedestrian and vehicular access over, upon or across the East/North Edgewater Strip, during and throughout the construction of the R-6 Project on the R-6 Lands, including the right to erect and maintain construction hoarding along the 3.9 metre line delineating the southerly limit of the East/North Edgewater Strip during and throughout said construction [which construction period in respect of the R-6 Project is presently estimated to endure for approximately thirty (30) consecutive months];
 3. the right to temporarily close (and prevent or restrict) pedestrian and vehicular access over, upon or across the northerly driving lane of Edgewater Drive, for excavation, concrete and/or steel trailer deliveries to and from the R-6 Lands during and throughout the construction of the R-6 Project;
 4. the right to swing an overhead crane above and through the entire airspace of Edgewater Drive (and not just through the airspace of the East/North Edgewater Strip), during and throughout the construction of the R-6 Project on the R-6 Lands; and
 5. the right, at any time following the completion of the R-6 Project, to temporarily block (and prevent or restrict) pedestrian and vehicular access over, upon or across the East/North Edgewater Strip, during (and in connection with) any maintenance or repair work to the R-6 Project (including any future renovations or alterations thereto).
- xix) Notwithstanding anything hereinbefore provided to the contrary, it is understood and agreed that the Two-Way Shared Facilities and the Three-Way Shared Facilities shall expressly exclude:
- A. any or all of the equipment, fixtures, systems and/or appurtenant installations so installed, supplied or connected to or within the confines of this Condominium, the Retail Component and/or the Daycare Centre, but which are (or will be) earmarked and intended for the ongoing operation, servicing, maintenance and/or repair of this Condominium (or any portion thereof) exclusively (hereinafter collectively referred to as the "**Exclusive Condominium Equipment**"), and the entire cost of operating, maintaining, repairing and insuring the Exclusive Condominium Equipment shall comprise part of the common expenses of this Condominium and shall correspondingly be borne and paid for solely by this Condominium, and shall not comprise part of the Two-Way Shared Facilities Costs and/or the Three-Way Shared Facilities Costs;
 - B. any or all of the equipment, fixtures, systems and/or appurtenant installations so installed, supplied or connected to or within the confines of this Condominium, the Retail Component and/or the Daycare Centre, but which are (or will be) earmarked and intended for the ongoing operation, servicing, maintenance and/or repair of the Daycare Centre (or any portion thereof) exclusively (hereinafter collectively referred to as the "**Exclusive Daycare Centre Equipment**"), and the entire cost of operating, maintaining, repairing and insuring the Exclusive Daycare Centre Equipment shall be borne and paid for solely by the Daycare Centre Owner, and shall not comprise part of the Two-Way Shared Facilities Costs and/or the Three-Way Shared Facilities Costs; and
 - C. any or all of the equipment, fixtures, systems and/or appurtenant installations so installed, supplied or connected to or within the confines of this Condominium, the Retail Component and/or the Daycare Centre, but which are (or will be) earmarked and intended for the ongoing operation, servicing, maintenance and/or repair of the Retail Component (or any portion thereof) exclusively (hereinafter collectively referred to as the "**Exclusive Retail Equipment**"), and the entire cost of operating, maintaining, repairing and insuring the Exclusive Retail Equipment shall be borne and paid for solely by the Retail Component Owner, and shall not comprise part of the Two-Way Shared Facilities Costs and/or the Three-Way Shared Facilities Costs.
- xx) A. All purchasers are hereby advised that in connection with the design and completion of this Condominium, the Vendor intends to install various outdoor plants, shrubs, trees and/or other landscaping elements, materials and/or features within special planters or landscaping bases along the perimeter of each outdoor terrace that is appurtenant to each of the Special Landscaped Units, and that correspondingly comprises part of the exclusive use common element areas appurtenant thereto (hereinafter collectively referred to as the "**Special Terrace Landscaping**"). The Special Terrace Landscaping is designed to be visible from the exterior of the Condominium, reflecting a unified planting strategy, and is intended to create the illusion of a vertical botanical garden or condominium "*garden in the sky*".
- B. The Special Terrace Landscaping shall be accessed and maintained by this Condominium's authorized landscaping contractor and its personnel (hereinafter collectively referred to as the "**Designated Landscaping Staff**"), by gaining access to the affected terrace areas and the Special Terrace Landscaping directly from (and through) each of the Special Landscaped Units, not less than four times per year (namely in April, June, September and November) during the first year following the registration of this Condominium, and thereafter not less than three times per year (namely in April, June and September). The Designated Landscaping Staff shall gain access to and through each of the Special Landscaped Units on not less than 10 days prior written notice of any desired or scheduled entry [save and except for an emergency situation, where the Special Terrace Landscaping (or any portion thereof) is believed to be in imminent danger of damage or decay, or requires immediate protective or restorative care and attention, in which case the access by the Designated Landscaping Staff may be attained on 48 hours prior notice].
- C. Approximately 99% of the total annual cost of all landscape maintenance work and related services with respect to the Special Terrace Landscaping, including without limitation, the fees charged by the Condominium's retained landscape consultant (hereinafter referred to as the "**Landscape Specialist**") in connection therewith, and the cost of all pruning, trimming, planting, weed removal, pest control/management, fertilization, and wrapping of shrubs or trees in respect of the Special Landscaping, as well as the cost of any required repairs to the irrigation system and/or to the planters or containers housing the Special Terrace Landscaping, or with respect to any other matter, feature or installation pertaining to the Special Landscaping (hereinafter collectively referred to as the "**Special Landscape Costs**"), shall be allocated amongst (and shall correspondingly be borne and paid for by) each of the respective owners of the Special Landscaped Units exclusively, pursuant to Schedule "D" of this Condominium's declaration, as part of their respective additional common expenses, and the total projected annual cost of all such landscape work and related services in connection with the Special Terrace Landscaping shall accordingly be reflected in this Condominium's overall annual budget(s).
- D. None of the owners and residents of any of the Special Landscaped Units, nor their respective invitees or licensees, shall alter, damage, tamper with, prune or remove the Special Terrace Landscaping (or any portion thereof), nor plant any additional landscaping materials within same, on their own, but rather shall leave the pruning, maintenance and care of the Special Terrace Landscaping to the exclusive attention and services of the Designated Landscaping Staff and the Landscape Specialist.
- E. In addition to the Special Terrace Landscaping, an umbrella for shade has been (or will be) installed by the Vendor within the confines of the outdoor terrace appurtenant to each of the Special Landscaped Units, with there being two anchor location ports on each such terrace to anchor, fasten and/or support said umbrella. In order to maintain a uniformity of design and appearance, it is hereby understood and agreed that no owner or resident of a Special Landscaped Unit shall be entitled or permitted to alter or change the design, color and/or specifications of the aforementioned umbrella, nor replace same, nor attempt to place or install the umbrella in a location other than within either of the two designated anchor location ports on each terrace, without the prior approval of the Condominium Corporation thereto. The aforementioned umbrella shall be maintained and repaired by each owner of a Special Landscaped Unit, at their respective sole cost and expense.
- F. If the dwelling unit being acquired by the Purchaser hereunder comprises one of the Special Landscaped Units, then the Purchaser agrees to all of the foregoing provisions, including the provision of access to and through the dwelling unit by the Designated Landscaping Staff and the Landscape Specialist as and when required, as well as the payment of the Special Landscape Costs, and further acknowledges and agrees to abide by (and comply with) all of the provisions set forth in this Condominium's declaration governing the Special Terrace Landscaping and the Special Landscaped Units.

- xxi) Notwithstanding anything heretofore provided to the contrary, it is understood and agreed that in the event that the Daycare Centre is not ultimately constructed and completed within the Daycare Centre Lands (whether because the City of Toronto does not ultimately approve of such use, or believes that there will be an insufficient number of children in the neighbourhood to warrant such use, or because the City of Toronto is unable to find or contract with a suitable or acceptable Daycare Centre Operator to operate same, or for any other reason whatsoever), then the Daycare Centre Lands may alternatively be used for any one or more of retail, office and/or residential condominium uses, or a combination thereof (eg. with ground floor retail uses on level 1, and residential condominium uses on level 2 thereof), and with any residential condominium component thereof to ultimately comprise part of this Condominium, in which case the cost-sharing arrangements relative to the Two-Way Shared Facilities, the Three-Way Shared Facilities and the Shared Roadway shall be revised and adjusted accordingly (and may, in fact, thereby ultimately reduce all cost-sharing arrangements affecting the Aquabella Project to a two-way cost-sharing regime between this Condominium and the Retail Component Owner), and none of the foregoing possible changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Vendor to the Purchaser in connection with this transaction. Furthermore, it is understood and agreed that the ultimate use of the Daycare Centre Lands shall be restricted to that of a daycare centre or nursery, or to any commercial business and/or institutional-type uses that are expressly permitted under the applicable zoning by-law but which are also not incompatible with the Condominium adjacent thereto, and which do not directly compete with any existing (or then prevailing) commercial/retail use(s) within the Retail Lands (or within the neighbouring Aquavista retail component), and which do not undermine the ground floor animation plan designed and/or approved for the Bayside Lands (as hereinafter defined), and with various specified prohibited uses in respect of the Daycare Centre Lands to be outlined in a schedule to the Shared Facilities Agreement.

CONSTRUCTION MATTERS

3.04 The parties hereto hereby acknowledge and agree that Section 3.04(c) of Schedule "A" to this Agreement shall be replaced in its entirety with the following sub-paragraph, namely:

- c) Subject to clauses (i) and (ii) hereof, the Vendor agrees to rectify any deficient or incomplete construction items with respect to the Property that are covered or governed by the statutory warranties deemed to be given by the Vendor under the Tarion Legislation. In this regard, the Purchaser expressly acknowledges and agrees that:
- i) any warranties of workmanship or materials, in respect of any aspect of the construction of the Property and/or any common elements of the Condominium, whether expressed or implied by this Agreement, or imposed at common law or in equity, or imposed by any statute or otherwise, shall be specifically restricted to those warranties deemed to be given by the Vendor under the Tarion Legislation, and shall extend only for those respective time periods (and only in respect of those items or matters) stipulated or covered by the Tarion Legislation; and
 - ii) to the extent permitted by law, any dispute involving construction deficiencies, incomplete work and/or missing items that are alleged or claimed by the Purchaser and/or the Condominium Corporation in respect of the Unit and/or any exclusive use common element areas shall:
 - A. at the Vendor's sole option and election, be resolved with the Purchaser and/or the Condominium Corporation (as the case may be) by binding arbitration in accordance with the provisions of the *Arbitration Act 1991, S.O. 1991 as amended* (rather than by judicial proceedings initiated by or on behalf of the Purchaser or the Condominium Corporation, through the filing of a notice of application or a statement of claim); or
 - B. be resolved with the Purchaser and/or the Condominium Corporation (as the case may be) through the processes established and/or administered by Tarion (rather than by arbitration in accordance with option (A) above, and rather than by judicial proceedings initiated by or on behalf of the Purchaser or the Condominium Corporation), if the Vendor has not selected arbitration pursuant to option (A) above as the method or forum for resolving such disputes, or if the law compels the resolution of such disputes by or through the processes established and/or administered by Tarion;
 and in either of the foregoing scenarios or circumstances, both the Purchaser and the Condominium Corporation shall have no rights or claims against the Vendor in respect of any of the units and/or common elements of the Condominium beyond those that are specifically granted to it or them under the Act and/or pursuant to the Tarion Legislation.

ARTICLE IV - TITLE, NOTICES, CLOSING AND TENDER

TITLE

- 4.02 (a) In addition to the easements, restrictions, covenants, agreements and interests more particularly outlined in Sections 4.01 and 4.02(a)(i) to (vii) inclusive of Schedule "A", to which the title to the Lands may be subject, the Purchaser hereby expressly acknowledges and agrees that on Closing, the building permit or permits issued by the building department of the City of Toronto in connection with the construction and completion of this Condominium may not be closed, but rather may still be open or active in light of the fact that some exterior and/or interior finishing work may be ongoing or still outstanding with respect to other dwelling units (or with respect to any other units, including parking or locker units) in this Condominium and/or any common element areas comprising part of this Condominium (or with respect to any portion of the Daycare Centre and/or the Retail Component), but so long as there is no outstanding work order or no formal notice of any outstanding violation or deficiency issued by the building department of the City of Toronto in respect of the unit(s) being acquired by the Purchaser hereunder (and/or with respect to any exclusive use common element areas appurtenant thereto) then the Purchaser shall be expressly obliged to complete this transaction as and when scheduled, notwithstanding the existence of one or more open or active building permits in respect of this Condominium, or any portion thereof (or with respect to any portion of the Daycare Centre and/or the Retail Component), and without requesting any abatement in the purchase price or any holdback of any purchase monies whatsoever in connection therewith or as a consequence thereof, and without making or pursuing any claim or demand against the Vendor whatsoever with respect thereto, and the Purchaser shall not be entitled to submit any requisitions (nor request any action by, or relief from, the Vendor or any other party) with respect to same, or arising therefrom. The Purchaser also hereby expressly acknowledges and agrees that title to the Property and/or the Lands, or any portion thereof, is (or may on Closing be) subject to the following specific instruments, agreements, restrictive covenants, easement and/or interests, and expressly agrees to comply with (and abide by) all of the terms and provisions of said instruments, agreements, covenants and easements (as the case may be), AND THE PURCHASER SHALL NOT REQUIRE (NOR REQUISITION) ANY RELEASES OR DISCHARGES OF SAME WITH RESPECT TO THE PROPERTY OR THE LANDS, NOR REQUEST (OR REQUISITION) ANY AMENDMENTS WITH RESPECT THERETO, NOR ANY CONFIRMATION (OR EVIDENCE) OF COMPLIANCE THEREWITH, namely:
- vii) Instrument No. A1-1847636, registered on July 29th, 2008, being notice of Minutes Of Settlement dated November 15th, 2007 (hereinafter referred to as the "November 2007 Minutes of Settlement"), entered into by Toronto Waterfront Revitalization Corporation (hereinafter referred to as "Waterfront Toronto"), Redpath Sugar Ltd. (hereinafter referred to as "Redpath"), the City of Toronto (sometimes hereinafter referred to as the "City") and the City of Toronto Economic Development Corporation (hereinafter referred to as "TEDCO"), in respect of Redpath's appeal to the Ontario Municipal Board of an official plan amendment and zoning by-law amendment enacted by the City regarding the future development of certain lands owned by the City situate to the south of Queens Quay East, between lower Jarvis Street and lower Sherbourne Street, along the north shore of Lake Ontario, and comprising the western half of the East Bayfront lands (hereinafter collectively referred to as the "West Precinct Lands"). Even though the Real Property upon which this Condominium is being developed is situate to the east of the West Precinct Lands, the November 2007 Minutes of Settlement were registered against the Lands because there was no severance or subdivision plan separating the West Precinct Lands from the balance of the East Bayfront lands owned by the City of Toronto along the waterfront. Pursuant to the November 2007 Minutes of Settlement,

- A. Redpath acknowledges that it is currently operating a sugar processing and storage plant (where raw sugar is being refined) on those lands and premises situate to the west of the West Precinct Lands and municipally known as 95 Queens Quay East, Toronto (the "**Redpath Lands**"), together with the potential future operation of an accessory electricity co-generation system on the Redpath Lands (with the aforementioned processing and storage plant and the aforementioned electricity co-generation system being hereinafter collectively referred to as the "**Redpath Facility**");
- B. Redpath confirms that it has concerns about the future development of the West Precinct Lands due to the noise, air emissions, vibration, odours, fugitive dust and light emanating from the Redpath Facility, and that Redpath's current and future operations may cause undue adverse impacts on the West Precinct Lands and its occupants and visitors, and that the future development of the West Precinct Lands may conversely cause undue adverse impacts on Redpath's ability to comply with various regulatory approvals, guidelines and standards relative to its current and future operations; and
- C. prior to the development of the West Precinct Lands: (i) various noise, emission and vibration studies shall be undertaken, taking into account the future full capacity and operation of the Redpath Facility; (ii) any future development of the West Precinct Lands shall address and incorporate appropriate noise, emission and vibration mitigation measures, as well as measures to monitor the ground water and air quality within any such development, in accordance with Ministry of the Environment guidelines; and (iii) an emissions warning clause approved by Redpath shall be given to all purchasers, lessees and/or transferees of any portion of the West Precinct Lands, warning them of the potential for excessive noise, vibrations, air emissions, odours, dust and light emanating from the Redpath Facility, and shall correspondingly be inserted in all agreements of purchase and sale, and in all leases, entered into in respect of any sale or lease of any portion of the West Precinct Lands;
- (ix) **Instrument No. A1-1863348**, registered on August 13th, 2008, being notice of an agreement made pursuant to the *Industrial and Mining Lands Compensation Act R.S.O. 1990, as amended*, dated November 2007 (hereinafter referred to as the "**Compensation Agreement**"), entered into by Redpath, the City of Toronto and TEDCO, which confirms, amongst other things, that the November 2007 Minutes of Settlement constitutes the payment of compensation in full, for the purposes set out in section 1 of the *Industrial and Mining Lands Compensation Act R.S.O. 1990, as amended*, and that the November 2007 Minutes of Settlement and the Compensation Agreement collectively afford a complete answer to any action that may be brought for damages, or for an injunction, or both, now or at any time in the future, because of any noise, dust, odour, air quality and/or other emissions from the present or future operations (at full capacity) of the Redpath Facility;
- x) **Instrument No. A1-3554854**, registered on April 9th, 2014, being a plan document that confirms the City of Toronto's application to register a plan of subdivision in respect of part of Lots 23, 24 and 25 on Registered Plan 694-E (and now comprising Plan 66M-2514);
- xi) **Instrument No. A1-3554855**, registered on April 9th, 2014, being a subdivision agreement dated June 26th, 2013, entered into between the City of Toronto in its capacity as the municipal authority, and Waterfront Toronto in its capacity as the master developer selected or appointed by the City of Toronto to oversee, manage and coordinate the overall development of certain designated portions of Toronto's waterfront lands (hereinafter collectively referred to as the "**East Bayfront Lands**"), and which agreement governs or pertains to the servicing and development of the Real Property, and other adjacent or neighbouring lands situate within the plan of subdivision registered as Plan 66M-2514 (hereinafter referred to as the "**Subdivision Agreement**");
- xii) **Instrument No. A1-3605430**, registered on June 12th, 2014, is notice of an outstanding Section 37 Density Bonus/Development Agreement, entered into by Waterfront Toronto with the City of Toronto, pertaining to the provision of public benefits in exchange for increases in the height and/or density of the Condominium being developed on the Real Property (and/or with respect to other residential projects being developed on any portion of the East Bayfront Lands), and which agreement requires, amongst other things, certain community facilities to be developed or paid for by Waterfront Toronto in exchange for being granted increased height and/or density rights with respect to the development of the Condominium on the Real Property (and/or with respect to other residential projects being developed on any portion of the East Bayfront Lands), and which agreement may be amended, augmented, supplemented and/or replaced, in whole or in part, by one or more subsequently-registered agreements with the City of Toronto;
- xiii) **Instrument No. A1-3680825**, registered on September 4th, 2014, being a re-statement of the agreement referred to in Instrument No. A1-3605430, but specifically correcting page 5 thereof (and with the agreement registered as Instrument No. A1-3605430, as amended by Instrument No. A1-3680825, being hereinafter collectively referred to as the "**Section 37 Agreement**");
- xiv) **Instrument No. A1-3683820**, registered on September 9th, 2014, being a certificate of requirement issued pursuant to section 197(2) of the *Environmental Protection Act*, which confirms that **Certificate of Property Use No. 6181-9HMJAY** has been issued by the MOECC in respect of the development of a portion of the Real Property (hereinafter referred to as the "**First CPU**"), and which imposes various risk management measures (and other preventative measures) including without limitation, building construction restrictions, barriers to site soils, inspection and maintenance programs, ground water and air monitoring programs, coal tar mitigation barriers, a soil management plan and a health and safety plan, and various reporting requirements in connection therewith [with the corresponding requirement that ground water samples and air samples will have to be taken from this Condominium's below-grade common element areas on a periodic basis, as stipulated by the First CPU, for ultimate analysis by an accredited laboratory, with records of all sampling events and analytical test results to be maintained by the Condominium Corporation and available for inspection by the MOECC upon request], on the express understanding and agreement that: (i) all of the on-going inspection, testing, monitoring and reporting requirements outlined in the First CPU shall, forthwith following the registration of this Condominium and the execution of the Shared Facilities Agreement, become the obligation of the Three-Way Shared Facilities Committee to carry out (on behalf of the Condominium, the Retail Owner and the Daycare Centre Owner respectively); (ii) all costs and expenses incurred in connection therewith shall comprise part of the CPU Compliance Costs, which in turn shall comprise part of the Three-Way Shared Facilities Costs, and such anticipated costs shall be reflected in this Condominium's annual operating budget(s); and (iii) any person having an interest in that portion of the Real Property so encumbered by the First CPU is required, before dealing with such interest in the Real Property, to give a copy of the First CPU (including any amendments thereto) to every person acquiring an interest therein, and this requirement or obligation applies to each person who, subsequent to the registration of the First CPU, acquires an interest in that portion of the Real Property so encumbered by the First CPU;
- xv) **Instrument No. A1-3689842**, registered on September 16th, 2014, being a certificate of requirement issued pursuant to section 197(2) of the *Environmental Protection Act*, which confirms that **Certificate of Property Use No. 0340-9NKKFM** has been issued by the MOECC in respect of the development of a portion of the Real Property (hereinafter referred to as the "**Second CPU**"), and which imposes various risk management measures (and other preventative measures) including without limitation, building construction restrictions, barriers to site soils, inspection and maintenance programs, ground water and air monitoring programs, coal tar mitigation barriers, a soil management plan and a health and safety plan, and various reporting requirements in connection therewith [with the corresponding requirement that ground water samples and air samples will have to be taken from this Condominium's below-grade common element areas on a periodic basis, as stipulated by the Second CPU, for ultimate analysis by an accredited laboratory, with records of all sampling events and analytical test results to be maintained by the Condominium Corporation and available for inspection by the MOECC upon request], on the express understanding and agreement that: (i) all of the on-going inspection, testing, monitoring and reporting requirements outlined in the Second CPU shall, forthwith following the registration of this Condominium and the execution of the Shared Facilities Agreement, become the obligation of the Three-Way Shared Facilities Committee to carry out (on behalf of the Condominium, the Retail Owner and the Daycare Centre Owner respectively); (ii) all costs and expenses incurred in connection therewith shall comprise part of the CPU Compliance Costs, which in turn shall comprise part of the Three-Way Shared Facilities Costs, and such anticipated costs shall be reflected in this Condominium's annual operating budget(s); and (iii) any person having an interest in that portion of the Real Property so encumbered by the Second CPU is required, before dealing with such interest in the Real Property, to give a copy of the Second CPU (including any amendments thereto) to every person acquiring an interest therein, and this requirement or obligation applies to each person who, subsequent to the registration of the Second CPU, acquires an interest in that portion of the Real Property so encumbered by the Second CPU;
- xvi) **an amending agreement with respect to the November 2007 Minutes of Settlement**, to be entered into sometime hereafter amongst Redpath, Waterfront Toronto and the City, pursuant to which the City will assume all of the obligations of TEDCO under the November 2007 Minutes of Settlement, and the November 2007 Minutes of Settlement will expressly apply to the future development of those lands and premises located in the East Bayfront Precinct Area, situate south of Queens Quay East, east of Sherbourne Common and west of the Parliament Street slip, inclusive of the Real Property, and any reference to the term "this Agreement" in the November 2007 Minutes of Settlement, as well as any reference to the November 2007 Minutes of Settlement in any other agreement(s), shall thereafter automatically mean the November 2007

Minutes of Settlement, as amended by this amending agreement. Pursuant to this amending agreement, and in an effort to reduce the impact of noises and odours emanating from the Redpath Facility, the declaration of this Condominium is required to expressly oblige the Condominium Corporation to operate, maintain, repair and replace the carbon or other odour-absorptive filter system installed by the declarant of the Condominium within each dwelling unit, in accordance with the manufacturer's specifications, and pursuant to a maintenance protocol developed in accordance with the requirements of the air and/or noise emissions study approved or accepted by the City of Toronto, and all costs and expenses incurred in connection therewith shall comprise part of the common expenses of the Condominium;

- xvii) **an assumption of the obligations under the November 2007 Minutes of Settlement**, to be entered into by Redpath, Waterfront Toronto, the City of Toronto and the Vendor, pursuant to which the Vendor shall assume all of the outstanding and ongoing obligations of Waterfront Toronto and the City of Toronto under the November 2007 Minutes of Settlement, as amended by the aforementioned amending agreement referred to in the preceding paragraph;
- xviii) **a master project agreement**, entered into between Waterfront Toronto and Hines Canada Management Company III ULC, or Hines Bayside III ULC, or a company related, associated or affiliated therewith (hereinafter referred to as "**Hines Canada**"), governing the development of those lands and premises bounded by Lake Ontario on the south, Sherbourne Park (also known as Sherbourne Common) on the west, Queens Quay East on the north, and the Parliament Street Slip on the east (hereinafter collectively referred to as the "**Bayside Lands**"), with Hines Canada being selected by Waterfront Toronto as the latter's development partner in respect of the development of the Bayside Lands, inclusive of the Real Property (hereinafter referred to as the "**Master Project Agreement**");
- xix) **a development agreement**, entered into between Waterfront Toronto and the Vendor, pursuant to which the Vendor is appointed or designated by Waterfront Toronto as the site developer of the Real Property (and possibly other lands adjacent thereto or in the neighbouring vicinity thereof), and which agreement governs the nature, timing, design, construction, animation and overall function of the development of the Real Property, and specifically governs the development and completion of this Condominium, the Daycare Centre and the Retail Component collectively comprising the Project being developed upon or within the Real Property (hereinafter referred to as the "**Development Agreement**");
- xx) **an outstanding site plan agreement**, entered into between the Vendor and the City of Toronto, pertaining to the development of this Condominium on the Real Property, and which agreement may provide for, amongst other things, the maintenance of grading and drainage patterns, emergency fire/access routes, residential garbage storage and pickup, landscaping and other site completion matters, and may also address other outstanding municipal concerns involving or affecting the ongoing operation and maintenance of this Condominium, and which agreement may be amended, augmented, supplemented and/or replaced, in whole or in part, by one or more subsequently-registered agreements (hereinafter referred to as the "**Site Plan Agreement**");
- xxi) **a right of re-entry or licence in favour of the Vendor and the City of Toronto**, and each of their respective designated representatives, employees, agents and/or contractors, to enter upon the Lands (or any portion thereof) at any time or times after Closing, for the purposes of inspecting, maintaining and/or repairing any works, services and/or facilities installed or constructed within the confines of (or associated with) this Condominium, on the express understanding and agreement that such right of re-entry or licence shall be deemed and construed to arise from and upon the date of registration of this Condominium, and shall automatically expire on the 10th anniversary of the date of registration of this Condominium;
- xxii) **one or more additional certificates of requirement and/or certificates of property use** (hereinafter and hereinafter collectively referred to as the "**Additional CPUs**") which may be registered on title pursuant to the provisions of the *Environmental Protection Act R.S.O. 1990, as amended*, and the regulations promulgated thereunder from time to time, in connection with the development of the Real Property and the ongoing maintenance and administration of this Condominium, and correspondingly imposing the obligation for the ongoing inspection, testing and monitoring of the ground water within the confines of this Condominium (or within the adjacent lands) that is ultimately discharged into the City of Toronto's sewer system, together with the ongoing testing and monitoring of the air quality in respect of the air within the below-grade portions of this Condominium, along with periodic reporting requirements in connection therewith [with the corresponding requirement that ground water samples and air samples will have to be taken from this Condominium's below-grade common element areas on a periodic basis, as stipulated by the Additional CPUs, for ultimate analysis by an accredited laboratory, with records of all sampling events and analytical test results to be maintained by the Condominium Corporation and available for inspection by the MOECC upon request], on the express understanding and agreement that: (i) all of the on-going inspection, testing, monitoring and reporting requirements outlined in the Additional CPUs (if any) shall, forthwith following the registration of this Condominium and the execution of the Shared Facilities Agreement, become the obligation of the Three-Way Shared Facilities Committee to carry out (on behalf of the Condominium, the Retail Owner and the Daycare Centre Owner respectively); (ii) all costs and expenses incurred in connection therewith shall comprise part of the CPU Compliance Costs, which in turn shall comprise part of the Three-Way Shared Facilities Costs, and such anticipated costs shall be reflected in this Condominium's annual operating budget(s); and (iii) any person having an interest in that portion of the Real Property so encumbered by the Additional CPUs shall be required, before dealing with such interest in the Real Property, to give a copy of the Additional CPUs (including any amendments thereto) to every person acquiring an interest therein, and this requirement or obligation applies to each person who, subsequent to the registration of the Additional CPUs, acquires an interest in that portion of the Real Property so encumbered by the Additional CPUs;
- xxiii) **a restriction on any transfer of title to any portion of the Real Property**, registered by or in favour of Waterfront Toronto, pursuant to section 118 of the *Land Titles Act R.S.O. 1990, as amended*, and which restriction shall be lifted by Waterfront Toronto prior to the first final closing of a unit sale transaction in this Condominium;
- xxiv) **an easement in perpetuity** in favour of one or more of the Utility Monitors selected by the Vendor, in, over, under, upon, across and through the common elements of this Condominium, in order to facilitate the installation, operation, monitoring, maintenance and/or repair of the meters and check meters installed within the confines of this Condominium (including the electricity check meters appurtenant to each of the dwelling units and the Electrical Parking Units, if any), and if so requested by the Utility Monitor, title may also be subject to an agreement between the Condominium Corporation and the Utility Monitor pertaining to the installation, operation, monitoring, maintenance and/or repair of the meters and check meters so installed within the confines of this Condominium, and specifically providing for the periodic reading of the individual check meters and the corresponding issuance of periodic invoices in connection therewith, and any related services provided to this Condominium (hereinafter referred to as the "**Utility Monitoring Agreement**"), on the express understanding and agreement that the Utility Monitor may retain ownership of any or all of the electricity meters or check meters appurtenant to each of the dwelling units and the Electrical Parking Units (if any), and possibly ownership of the cables, conduits and appurtenant equipment associated therewith;
- xxv) **one or more easements in perpetuity**, in favour of one or more cable television, telephone and/or telecommunication service providers (hereinafter collectively referred to as the "**Telecommunication Service Providers**"), over, under, upon, across and through the common elements of this Condominium, for the purposes of facilitating the installation, operation, maintenance and/or repair of cable television, telephone and/or telecommunication lines, cables and equipment (and all necessary appurtenances thereto) in order to facilitate the supply of cable television, telephone and/or other telecommunication services to each of the units in this Condominium by the Telecommunication Service Providers, with each unit owner being separately billed or invoiced directly by the Telecommunication Service Providers for all cable television, telephone and any other telecommunication services so consumed, and if so requested by any or all of the Telecommunication Service Providers, title may also be subject to one or more easement/servicing agreements between this Condominium and each of the Telecommunication Service Providers pertaining to the provision of cable television, telephone and/or other telecommunication services to this Condominium (hereinafter referred to as the "**Telecommunication Agreements**"), on the express understanding and agreement that
- A. any or all of the Telecommunication Service Providers may retain ownership of all wires, cables, conduits and appurtenant equipment associated with the provision and distribution of its/their cable television, telephone and/or telecommunication services to each of the units and the common elements of this Condominium, and
- B. the aforementioned easements and/or the Telecommunication Agreements may specifically allow each of the Telecommunication Service Providers access to and from the common elements of this Condominium for the purposes of facilitating the promotion and marketing of their respective telecommunication services and products, from time to time;
- xxvi) **a bulk internet easement and servicing agreement** entered into between the Vendor and Beanfield Metroconnect W Inc (hereinafter referred to as "**Beanfield**"), with respect to the provision by Beanfield of broadband internet services (and possibly other telecommunication services) to this Condominium (hereinafter referred to as the "**Beanfield Agreement**"), pursuant to which Beanfield shall have an easement or right-of-

way over, under, upon, across and through the common elements of this Condominium, for the purposes of facilitating the installation, operation, maintenance and/or repair of its broadband internet telecommunication lines, cables and appurtenant equipment (and all necessary appurtenances thereto) in order to enable and facilitate Beanfield's supply of broadband internet and/or other telecommunication services to each of the units in this Condominium, and pursuant to which Beanfield shall be entitled to charge a monthly per dwelling unit internet service fee during and throughout the initial term of the Beanfield Agreement (being approximately 10 years in duration, commencing 90 days from and after the date of the first occupancy of any dwelling unit in this Condominium), with the projected monthly internet service fee (that will comprise part of the common expenses) to be approximately \$60 per dwelling unit per month plus H.S.T. during the first year of this Condominium's registration (and throughout the balance of the initial term of the Beanfield Agreement), for approximately 100Mbps of broadband internet speed/capacity to be provided by Beanfield, on the express understanding that:

- A. Beanfield may retain ownership of all wires, cables, conduits and appurtenant equipment associated with the provision and distribution of its broadband internet and/or other telecommunication services to each of the units and the common elements of this Condominium;
- B. Beanfield shall be allowed access to and from (and upon, over and throughout) the common elements of this Condominium for the purposes of facilitating the promotion and marketing of Beanfield's broadband internet and other telecommunication services and products, from time to time;
- C. Beanfield shall be this Condominium's designated (but not necessarily exclusive) internet, cable television and other telecommunication services provider; and
- D. Beanfield shall have a right of first refusal to match any competing third party offer involving the provision of internet services to this Condominium, received during the term of the Beanfield Agreement and/or at any time thereafter;

xxvii) **an assumption of the Beanfield Agreement** entered into by the Condominium Corporation with the Vendor (and with Beanfield as a party, but not necessarily as a signatory, thereto), pursuant to which this Condominium shall formally assume (and be bound by, and comply with) all outstanding and/or ongoing covenants and obligations of the Vendor arising under the Beanfield Agreement (including the obligation to provide Beanfield with the right of first refusal to match any competing third party offer involving the provision of internet services to the Condominium, received during the term of the Beanfield Agreement and/or at any time thereafter), and pursuant to which the Vendor shall be fully released and discharged from all such assumed obligations and liabilities arising thereunder or therefrom (hereinafter referred to as the "Assumption of the Beanfield Agreement");

xxviii) **an assumption of the Development Agreement** entered into by the Condominium Corporation with the Vendor (and with Waterfront Toronto as a party, but not necessarily as a signatory, thereto), pursuant to which this Condominium shall formally assume (and be bound by, and comply with) all outstanding and/or ongoing covenants and obligations of the Vendor arising under the Development Agreement which pertain or relate to this Condominium and/or the lands encompassed within the boundaries of this Condominium (hereinafter referred to as the "Condominium Lands"), but excluding those covenants and/or obligations relating to the Daycare Centre and/or the Retail Component exclusively, and excepting or excluding those covenants and obligations that have already been fully performed by the Vendor at the time that the Condominium has been registered [and except for such other excluded covenants and obligations which are collectively referred to as (and correspondingly defined as) the "Non-Assumed Covenants" in section 1.01 of (or elsewhere within) the Development Agreement], but including the obligation to maintain the works, services and/or facilities constructed or installed by the Vendor on or within the Condominium Lands, and pursuant to which the Vendor shall be fully released and discharged from all such assumed covenants and obligations, and from all liabilities respectively arising thereunder or therefrom (hereinafter referred to as the "Assumption of the Development Agreement");

xxix) **an assumption agreement** entered into by the Condominium Corporation with the Vendor (and with Waterfront Toronto, the City of Toronto and Redpath Sugar Limited as parties, but not necessarily as signatories, thereto), pursuant to which this Condominium shall formally assume (and be bound by, and comply with) all outstanding and/or ongoing obligations and liabilities of Waterfront Toronto and/or the Vendor arising under the Amended Minutes of Settlement, pursuant to which (and in an effort to reduce the impact of noises and odours emanating from the Redpath Facility) this Condominium shall be obliged to operate, maintain, repair and replace the carbon or other odour-absorptive filter system installed by the Declarant within each dwelling unit, in accordance with the manufacturer's specifications, and pursuant to a maintenance protocol developed in accordance with the requirements of the air and/or noise emissions study approved or accepted by the City of Toronto, and all costs and expenses incurred in connection therewith shall comprise part of the common expenses of the Condominium, and each of the Declarant and Waterfront Toronto shall be fully indemnified by the Condominium for all costs, claims, damages and/or liabilities which the Declarant and/or Waterfront Toronto may hereafter suffer or incur as a result of (or in connection with) any claim or proceeding hereafter made or pursued against the Declarant and/or Waterfront Toronto by the City of Toronto and/or Redpath, because of any breach or contravention of any of the obligations so assumed by this Condominium pursuant to this assumption agreement, or because of any security heretofore provided or posted by the Declarant and/or Waterfront Toronto with the City of Toronto (to ensure the fulfilment of any outstanding obligations arising under the Amended Minutes of Settlement) being drawn down upon by the City of Toronto (in whole or in part), as a direct or indirect result of any breach or contravention of any of the obligations so assumed by this Condominium pursuant to this assumption agreement, so committed by the Condominium Corporation, or by anyone else for whose actions or omissions the Condominium Corporation is liable, at law or in equity (hereinafter referred to as the "Assumption of Obligations Under the Amended Minutes of Settlement");

xxx) **an assumption agreement** entered into by the Condominium Corporation with the Vendor (and with Waterfront Toronto and the City of Toronto as parties, but not necessarily as signatories, thereto), pursuant to which this Condominium shall formally assume (and be bound by, and comply with) all outstanding and/or ongoing obligations and liabilities of Waterfront Toronto and/or the Vendor arising under each of the Subdivision Agreement, the Section 37 Agreement, the Site Plan Agreement, the Master Project Agreement and the Development Agreement respectively, as well as all obligations arising under any of the Encroachment Agreements (as hereinafter defined) pertaining to (or otherwise affecting) this Condominium and/or the Condominium Lands, including the obligation to maintain the works, services and/or facilities constructed or installed by Waterfront Toronto and/or the Vendor on the lands and premises encompassed within the condominium description plan of this Condominium, and pursuant to which Waterfront Toronto and the Vendor shall be fully released and discharged from all such assumed covenants and obligations, and from all liabilities respectively arising thereunder or therefrom (hereinafter referred to as the "Assumption of Outstanding Municipal Agreements");

xxxi) **one or more servient easements** affecting or burdening all or portions of the common elements of this Condominium situate on levels 1, A, B, C and/or D, in favour of:

- A. Toronto Hydro, and its successors and assigns from time to time, for vehicular and/or pedestrian access and egress purposes, as well as for maintenance, servicing and/or support purposes, in order to enable Toronto Hydro and its authorized agents, representatives, employees, contractors and/or subcontractors from time to time to access, service, maintain and/or repair Toronto Hydro's electrical transformer and all ancillary equipment appurtenant thereto so installed and/or owned by Toronto Hydro and situate within the hydro vault located within the confines of this Condominium (or situate on any lands adjacent thereto or in the neighbouring vicinity thereof);
- B. the Daycare Centre Owner, for vehicular and/or pedestrian access and egress purposes, as well as for maintenance, servicing and/or support purposes, in order to enable the Daycare Centre Owner and/or the Daycare Centre Operator, and their respective authorized agents, representatives, employees, tenants, sub-tenants, invitees, contractors and/or subcontractors from time to time to access, service, maintain and/or repair any portion of the Daycare Centre and all appurtenant equipment, fixtures, installations and/or systems which service or benefit the Daycare Centre (or any portion thereof), and to correspondingly physically support the Daycare Centre; and
- C. the Retail Component Owner, for vehicular and/or pedestrian access and egress purposes, as well as for maintenance, servicing and/or support purposes, in order to enable the Retail Owner and its authorized agents, representatives, employees, tenants, sub-tenants, invitees, contractors and/or subcontractors from time to time to access, service, maintain and/or repair any portion of the Retail Component and all appurtenant equipment, fixtures, installations and/or systems which service or benefit the Retail Component (or any portion thereof), and to correspondingly physically support the Retail Component;

xxxii) **a storm sewer easement agreement** entered into with the City of Toronto, pertaining to the installation, maintenance and repair of a municipal storm sewer within (or adjacent to) the Lands, and which agreement shall include an indemnity in favour of the City of Toronto against any damages resulting from sewer discharge or overflow, and from any physical damage caused or occasioned to the City of Toronto's storm sewer line by and from the development of the Lands (or any portion thereof) and/or the construction of the Condominium thereon;

- xxxiii) **one or more servient easements** in favour of the owner or operator of the District Energy service, over, under, upon, across, within and through all of the common elements on all levels of this Condominium, for the purposes of enabling or facilitating the installation, maintenance and/or repair of all of District Energy's pipes, cables, wires, ducts, equipment and appurtenant installations, required for the ongoing provision of District Energy's services to this Condominium and/or to any neighbouring lands;
- xxxiv) **one or more environmental emissions easements** for excessive or operational noise emissions and/or vibration emissions, in favour of any or all of the City of Toronto, the Toronto Transit Commission, Redpath, Metrolinx, the Canadian National Railway Company, the Canadian Pacific Railway Company, the provincial Ministry of Transportation and/or the Toronto Island Airport Authority, over all of the units and common elements of this Condominium;
- xxxv) **various servient easements** affecting all or portions of the common elements of this Condominium (for pedestrian and vehicular access and egress purposes and/or for servicing, maintenance, repair and/or support purposes, in perpetuity) in favour of each of: (i) the Daycare Centre and/or the Daycare Centre Owner, and (ii) the Retail Component and/or the Retail Owner; including without limitation, an easement for pedestrian and vehicular access and egress purposes over all roadways and walkways situate within the confines of this Condominium, including all ramps and driveways within the underground parking garage (on all levels thereof) serving this Condominium, in favour of the respective owners and residents of each of the other components comprising part of the overall Project, and their respective invitees and licensees from time to time;
- xxxvi) **various appurtenant easements** that may be reserved, transferred or created in favour of this Condominium and its authorized agents, representatives, contractors and subcontractors from time to time (and/or in favour of the respective unit owners of this Condominium from time to time, and their respective residents, tenants, invitees and/or licensees), in, over, upon, across and/or through designated portions of the Daycare Centre Lands and/or the Retail Lands respectively, for vehicular and/or pedestrian access and egress purposes, and/or for servicing, maintenance, repair and/or support purposes (if and where so required);
- xxxvii) **a pedestrian and vehicular access/egress easement in perpetuity**, to be granted by the Vendor in favour of the City of Toronto (and the general public), and in favour of the Neighbouring Owners, over, across and upon the Shared Roadway which shall ultimately comprise part of the common elements of this Condominium, on the express understanding and agreement that: (i) the Shared Roadway shall be maintained and repaired (as and when required) by the Shared Roadway Committee on behalf of all three Contributors, in accordance with all standards, requirements and/or guidelines imposed by the City of Toronto in connection therewith; (ii) all costs and expenses incurred in connection with the illumination, insurance, maintenance and/or repair of the Shared Roadway shall comprise part of the Shared Roadway Costs, and be dealt with as such in accordance with the cost-sharing formula outlined in section 2.11(o)(xvii) hereof; and (iii) the Shared Roadway shall, once constructed and completed (and correspondingly approved by the City of Toronto for pedestrian and vehicular access and egress thereover) be fully accessible to each of the Neighbouring Owners and the general public at all times (subject to a few limited exceptions and/or restrictions);
- xxxviii) **a pedestrian access/egress easement in perpetuity**, to be granted by the Vendor in favour of the City of Toronto (and the general public), over, across and upon the Public Walkway known as Kanadario Lane, on the express understanding and agreement that: (i) the Public Walkway shall be maintained and repaired (as and when required) by this Condominium exclusively, in accordance with all standards, requirements and/or guidelines imposed by the City of Toronto in connection therewith; (ii) all costs and expenses incurred in connection with the illumination, insurance, maintenance and/or repair of the Public Walkway shall comprise part of the common expenses of this Condominium, and be dealt with as such; (iii) the Public Walkway shall, once constructed and completed (and correspondingly approved by the City of Toronto for pedestrian access and egress thereover) be fully accessible to the general public at all times (but nevertheless subject to certain limited exceptions and/or restrictions on such public access); and (iv) all landscape maintenance and landscape servicing costs involving the maintenance and repair of the walkways and landscaping features comprising part of Kanadario Lane shall be borne and paid for by this Condominium exclusively;
- xxxix) **the Shared Facilities Agreement** (as hereinbefore defined), to be entered into between this Condominium, the Daycare Centre Owner and the Vendor as soon as reasonably possible after this Condominium has been registered under the Act (and with the Vendor entering into same in its capacity as the Retail Owner), and which agreement shall provide, amongst other things, for the shared use and enjoyment of the Two-Way Shared Facilities by this Condominium and the Daycare Centre, and for the shared use and enjoyment of the Three-Way Shared Facilities by this Condominium, the Retail Component and the Daycare Centre, as well as the operation, insurance, maintenance and repair of the Two-Way Shared Facilities and the Three-Way Shared Facilities respectively, and the maintenance and repair of the respective building exteriors of each of the three components of the Project, and shall confirm the allocation and payment of the Two-Way Shared Facilities Costs and the Three-Way Shared Facilities Costs respectively, in accordance with the various cost-sharing formulae outlined in section 2.11(o)(x) and (xi) hereof;
- xl) **the Shared Roadway Agreement** (as hereinbefore defined), to be entered into between this Condominium, the Daycare Centre Owner and the Vendor as soon as reasonably possible after this Condominium has been registered under the Act (and with the Vendor entering into same in its capacity as the Retail Owner), and which agreement shall provide, amongst other things, for the shared use and enjoyment of the Shared Roadway comprising part of Edgewater Drive, as well as the illumination, operation, insurance, maintenance and repair of the Shared Roadway so governed and administered by the Shared Roadway Committee, and shall confirm the allocation and payment of the Shared Roadway Costs in accordance with the cost-sharing formula outlined in section 2.11(o)(xvii) hereof (pursuant to a formula based on relative or proportionate total finished area above-grade);
- xli) **a counterpart to the shared roadway agreement** initially entered into with respect to the Westerly Edgewater Section, by and amongst the Aquavista Condominium, the owner of the Aquavista Retail Component, the owner of the Artscape Project and the owner of the Aquavista Commercial Parking Garage (hereinafter referred to as the "**Aquavista Edgewater Roadway Agreement**"), with said agreement being initially registered only against the Aquavista project lands, and pursuant to which counterpart agreement this Condominium shall assume various outstanding and ongoing obligations arising thereunder, including the obligation to pay its proportionate share of the outstanding and ongoing costs for illuminating, insuring, maintaining and repairing the Westerly Edgewater Section (pursuant to a formula based on relative or proportionate total built area);
- xlii) **a linkage roadway agreement** to be entered into between the Aquavista Condominium (and possibly the Aquavista Retail Component owner, the Artscape Project owner, and the Aquavista Commercial Parking Garage owner) and either the Vendor (on behalf of this Condominium) or this Condominium (and possibly also the Retail Component Owner and the Daycare Centre Owner), confirming that to the extent possible and practically feasible (ie from an economic affordability and physical implementation perspective), the Westerly Edgewater Section shall be physically maintained, repaired and operated in conjunction with (and shall have the same physical components, appearance and be used in a manner that is identical to, and indistinguishable from) the Shared Roadway, and vice versa, and that any future alterations or improvements hereafter made to the Westerly Edgewater Section shall likewise be made to the Shared Roadway, and vice versa, pursuant to the decisions of a joint shared roadway committee governing same, represented by two members from (and appointed by) each of the Aquavista Condominium and this Condominium respectively;
- xliii) **various additional counterparts to either or both of the Shared Roadway Agreement and the Aquavista Edgewater Roadway Agreement**, to be registered sometime hereafter and entered into by the respective Neighbouring Owners from time to time who will be accessing and using Edgewater Drive, with said counterpart agreements evidencing their respective assumption of various outstanding and ongoing obligations arising thereunder, including the obligation to pay their respective proportionate share of the outstanding and ongoing costs for illuminating, insuring, maintaining and repairing the Shared Roadway and/or the Westerly Edgewater Section (as the case may be);
- xliv) **one or more limiting distance agreements** which may be entered into by the Vendor with the City of Toronto, which will restrict and prohibit any future development or construction upon or within: (A) the southerly 7 metres of Edgewater Drive situate along the northerly perimeter of the Aquavista site comprising part of the Aquavista Condominium and/or the Artscape Project; and (B) the southerly and westerly 7 metres of Edgewater Drive situate along the northerly and easterly perimeter of the Aquabella site comprising part of this Condominium and/or the Daycare Centre;
- xlv) **the Ground Water Discharge Agreement** (including any assignment and/or assumption agreement with respect to same) pertaining to the ground water that emanates from or through this Condominium's building foundation (and/or its appurtenant drainage system) and which will ultimately be discharged directly into the City of Toronto's storm sewer system, once same has been filtered and cleansed by and through the permanent ground water filtration and drainage system so installed by the Vendor within the confines of this Condominium, and which agreement may be assigned to (and assumed by) this Condominium, and which agreement will impose various outstanding and ongoing

obligations with respect to the control and treatment of the ground water being discharged into the City of Toronto's storm sewer system, including without limitation, the requirement for the ground water to be tested periodically to ensure that same is clean filtered water, or water that meets the City of Toronto's tolerance levels or standards, on the express understanding that the performance and fulfilment of all ground water discharge obligations arising thereunder (or in connection therewith) shall be undertaken and coordinated by the Three-Way Shared Facilities Committee, on behalf of all three Contributors, and all Ground Water Discharge Costs (as hereinbefore defined) shall ultimately be shared by and amongst the three Contributors (namely this Condominium, the Daycare Centre Owner and the Retail Component Owner) and shall correspondingly comprise part of the Three-Way Shared Facilities Costs.

- xlv) **a parking license agreement** to be entered into with the Daycare Centre Owner as the licensor, for nil consideration, shortly after the registration of this Condominium, pertaining to the three (3) Daycare Centre Parking Units, pursuant to which the Condominium Corporation as the licensee shall be entitled to access and use the Daycare Centre Parking Units during and throughout the Condominium's Visitor Hours when the Daycare Centre is not in operation (namely between 7:00 p.m. to 7:00 a.m. weekdays, and all throughout every weekend and all statutory holidays), as additional visitor parking to accommodate any visitors to this Condominium [and which license shall endure for as long as this Condominium is in existence, with the proviso that the Daycare Centre shall only be used for the purposes of a licensed daycare centre or nursery school, and for no other use or purpose unless same has been expressly consented to by the Condominium Corporation, failing which the aforementioned parking license in favour of the Condominium Corporation shall thereupon be automatically extended to envelop or encompass all of the Daycare Centre Hours (namely between 7:00 a.m. to 7:00 p.m. Monday through Friday), in addition to the Condominium's Visitor Hours];
- xlvii) **one or more encroachment agreements** to be entered into by the Vendor or the Condominium Corporation with the City of Toronto (hereinbefore and hereinafter collectively referred to as the "**Encroachment Agreements**"), permitting any portion of this Condominium, the Daycare Centre and/or the Retail Component (including without limitation, any buildings or structures, any covered or partially-covered entrance canopy and/or any sign band or sign box, if applicable) to encroach across, over or above any portion of the adjacent lands owned by the City of Toronto, including any adjacent sidewalk(s) and/or public road allowance, and expressly permitting the Condominium's lobby entrance canopy (if any) to encroach over or above any portion of the City of Toronto's sidewalk and/or public road allowance along the perimeter of this Condominium adjacent to Merchants Wharf and/or Edgewater Drive, and/or permitting any sign band/canopy that may be affixed to the exterior wall of this Condominium (which assists in the advertising or marketing of any retail stores, and/or the businesses or services of any retail tenants within the Retail Component) to encroach over and above the City of Toronto's sidewalk and/or public road allowance (all of which possible encroachments are hereinafter collectively referred to as the "**Encroachments**"), pursuant to which the Condominium Corporation shall ultimately be obliged, amongst other things, to:
- A. keep and maintain the Encroachments in good and proper repair and condition;
 - B. alter or remove the Encroachments, either on the re-building of the Condominium or upon receiving 30 days written notice from the City of Toronto's general manager to do so, without any compensation, reimbursement or other entitlement whatsoever;
 - C. indemnify and save the City of Toronto harmless from and against all claims, suits and actions (and from all costs, damages and expenses) which may be sustained, incurred or paid, by reason of the City granting permission to the installation, erection and/or maintenance of the Encroachments;
 - D. at all times maintain the Encroachments in such a manner so as to ensure that there will be no interference with pedestrian access and egress (or pedestrian traffic) over and along the City of Toronto's sidewalk/road allowance, along any portion of the perimeter of this Condominium, and that the line of sight of any traffic sign or signal is not obscured thereby; and
 - E. obtain and maintain, at all times throughout the duration of the Encroachments, public liability insurance (for personal injury and property damage) covering the maintenance of the Encroachments in an amount not less than \$5 million dollars coverage per occurrence, naming the City of Toronto as an additional named insured, which policy or policies of insurance shall contain cross-liability and severability endorsements, and a waiver of subrogation in favour of the City of Toronto (and those for whom the City of Toronto is, at law, responsible), and providing for thirty (30) days advance written notice to the City of Toronto in the event of a cancellation or material change to such insurance coverage;
- xlviii) **one or more below-grade shoring/encroachment agreements and/or overhead crane swinging and airspace access agreements**, entered into between the Vendor on the one hand, and the City of Toronto, the Toronto Transit Commission and/or any other owner(s) of adjacent or neighbouring lands on the other hand, pertaining to the development of the Project (inclusive of this Condominium, the Daycare Centre and the Retail Component) on the Real Property, and providing for the installation and encroachment by the Vendor of an underground shoring system (including tie back wires, cables, anchors and all appurtenant installations in connection therewith) within and beneath portions of adjoining lands (including the City of Toronto's road allowances and/or sidewalk areas), and also possibly providing for the use and operation of a swinging overhead crane (including the boom of a tower crane, and all containers, loading platforms, equipment and material being lifted and/or transported thereby) through or above the airspace located on adjoining lands (including portions of the City of Toronto's road allowances and/or sidewalk areas), as may be required from time to time in order to facilitate the construction and completion of the Project, as well as reciprocal encroachment and/or overhead air access rights granted to and in favour of the City of Toronto, the Toronto Transit Commission and/or any other owner(s) of adjacent or neighbouring lands, within, beneath or over portions of the Lands and/or this Condominium (and to which the title to the Lands or any portion thereof are now, or may hereafter be, subject); and
- xlix) **a storm sewer easement agreement** which may be entered into by the Vendor with the City of Toronto, pertaining to the installation, maintenance and repair of a municipal storm sewer within (or adjacent to) the Lands, and which agreement shall include an indemnity in favour of the City of Toronto against any damages resulting from sewer discharge or overflow, and from any physical damage caused or occasioned to the City of Toronto's storm sewer line by and from the development of the Lands (or any portion thereof) and/or the construction of this Condominium thereon.

NOTICES BETWEEN THE PARTIES

- 4.03(d) The Purchaser hereby expressly consents to receiving any and all notices emanating from the Vendor electronically, by e-mail, transmitted to the Purchaser's e-mail address set forth on page one of this Agreement (unless a different e-mail address for the Purchaser is set forth in the Tarion Addendum, in which case the e-mail address of the Purchaser set forth in the Tarion Addendum shall prevail), or alternatively, the Vendor may send an e-mail to the Purchaser notifying them that a detailed notice (and possibly accompanying documentation) has been posted on the Vendor's secure electronic portal and that same may be accessed, viewed and retrieved therefrom by the Purchaser using a confidential and secure personal password (hereinafter referred to as the "**Secured Portal**"), and the Purchaser hereby expressly acknowledges and agrees that:
- i) sending notices to the Purchaser by e-mail, through (and in conjunction with) the Secured Portal, is (and will be) the Vendor's desired and primary method of communication with the Purchaser, and by the Purchaser providing his or her e-mail address to the Vendor, the Purchaser is hereby consenting to the Vendor's delivery of notices to the Purchaser exclusively by e-mail, through (or in conjunction with) the Secured Portal, if in fact the Vendor chooses to send notices in that way;
 - ii) it is the Purchaser's responsibility to regularly check his or her e-mail, and to ensure that spam/junk mail filters are re-configured so as to recognize and accept e-mails from the Vendor as being safe (or alternatively to regularly check spam/junk mail folders for all e-mails emanating from the Vendor);
 - iii) notices or other communications sent by e-mail to the Purchaser, through (or in conjunction with) the Secured Portal, shall be deemed to have been received by the Purchaser on the day that an e-mail notifying the Purchaser of same has been sent, or on the next Business Day thereafter if the date of the Vendor's e-mail transmission was not made or given on a Business Day, and that proof of the Purchaser's receipt of any such e-mailed notice(s) will not be required in order for such notice(s) to be deemed sufficient;

- iv) in the event that the e-mail address which the Purchaser has provided to the Vendor on the first page of this Agreement is different from the e-mail address of the Purchaser set forth in the Tarion Addendum, then the latter e-mail address shall prevail, and the Vendor is hereby irrevocably authorized and directed to send notices by e-mail (through or in conjunction with the Secured Portal) to the Purchaser via the e-mail address set forth in the Tarion Addendum;
- v) if and when the Purchaser's e-mail address hereafter changes, then the Purchaser shall be obliged to forthwith notify the Vendor or the Vendor's solicitor of the Purchaser's new e-mail address; and
- vi) if the Purchaser does not have an e-mail address, or chooses not to have notices from the Vendor sent to the Purchaser by e-mail, or if the Purchaser's e-mail address so given to the Vendor hereafter changes (without the Purchaser notifying the Vendor or the Vendor's solicitor of the Purchaser's new e-mail address), or if the Purchaser's e-mail address box is full (and therefore cannot receive any incoming e-mails, or any further e-mails, from the Vendor), then in any of the foregoing circumstances the Vendor may charge the Purchaser in the statement of adjustments on final closing an extra administration fee (charged on a flat rate basis) in the amount of \$500 plus H.S.T., in order to compensate the Vendor for the additional time and expense incurred in having to send notices (and any accompanying documents) to the Purchaser by regular mail or registered mail, on the express understanding and agreement that: (A) the Vendor shall not be obliged to monitor any electronic responses or bounce-backs of e-mails to determine whether e-mail delivery to the Purchaser was successful; and (B) if the Vendor believes (for whatever reason) that the e-mails purported to be delivered to the Purchaser are not, in fact, being received by the Purchaser, then in said circumstances the Vendor may (but shall not be obliged) to deliver all notices issued thereafter (and any accompanying documents) to the Purchaser by regular mail or registered mail, in which case the Vendor shall also be entitled to charge the Purchaser in the statement of adjustments on final closing an extra administration fee (charged on a flat rate basis) in the amount of \$500 plus H.S.T., in order to compensate the Vendor for the additional time and expense incurred in having to send notices (and any accompanying documents) to the Purchaser by regular mail or registered mail

TENDER - GENERAL

4.04 The parties hereto hereby acknowledge and agree that Section 4.04 of Schedule "A" to this Agreement shall be replaced in its entirety with the following subparagraph, namely:

Subject to the overriding provisions of Section 4.05 hereof, any tender of documents or monies hereunder shall be made upon the Vendor and the Purchaser, or upon their respective solicitors, and notwithstanding anything hereinbefore or hereinafter provided to the contrary, **all monies due or payable by the Purchaser on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) and/or on the Closing Date, shall be tendered only by way of a certified cheque made payable to the Vendor's solicitors and drawn upon the trust account of the Purchaser's solicitor, and which account must be maintained at or with a Canadian chartered bank or trust company.** In the event that a bank draft is delivered for all (or any part of) the balance of the purchase monies due on closing, or is utilized in connection with any direct deposit into the Vendor's solicitor's bank account, rather than (or in lieu of) the delivery of a certified cheque drawn on the Purchaser's solicitor's trust account, then in either case the Vendor and the Vendor's solicitors shall not be obliged to accept such bank draft or such direct deposit via bank draft (as the case may be), unless and until such method of payment via bank draft is also accompanied by a letter from the Purchaser's solicitor unequivocally confirming that all funds used to purchase or acquire said bank draft emanated directly from the Purchaser's solicitor's trust account maintained at or with a Canadian chartered bank or trust company, and not from the bank account of the Purchaser or any third party who is not a solicitor. Furthermore, in the event that a direct deposit is made by the Purchaser's solicitor for all (or any part of) the balance of the purchase monies due on closing [rather than by way of (or in lieu of) the delivery of a certified cheque drawn on the Purchaser's solicitor's trust account or the delivery of a bank draft issued by the Purchaser's solicitor's bank], then the Vendor and the Vendor's solicitors shall not be obliged to accept such direct deposit unless such form of payment is also accompanied by the delivery to the Vendor's solicitors of a copy of the deposit receipt issued by the Canadian chartered bank or trust company which received or accepted the direct deposit, together with a copy of the certified cheque drawn on the Purchaser's solicitor's trust account or the bank draft issued by the Purchaser's solicitor's bank that was correspondingly utilized or tendered in connection with the aforementioned direct deposit, and provided further that the Vendor's solicitors' own bank independently confirms that the monies purported to be direct deposited into the Vendor's solicitors' bank account have, in fact, been received by the Vendor's solicitors' own bank. In the event that such tender relates to the **interim occupancy closing** contemplated in Section 2.08 (a) hereof, then such tender shall be made on the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be) by the attendance of the parties hereto, or their respective solicitors or authorized representatives, at the office of the Vendor's solicitors (as set out on page 1 of this Agreement), and the office of the Vendor's solicitors shall be deemed to be the only and proper location of any such tender. Moreover, in the absence of an appointment to the contrary, such attendance (and the corresponding delivery of all required documents and certified funds) **shall occur at the office of the Vendor's solicitors between the hours of 1:00 p.m. and 2:00 p.m. in the afternoon of the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be).** In the event that such tender relates to the **final closing** of this transaction [evidenced by, amongst other things, the Vendor's delivery to (or tender upon) the Purchaser or the Purchaser's solicitor of a transfer/deed in respect of the Property, in registerable form], then such tender shall be effected pursuant to (and in accordance with) the overriding provisions of Section 4.05 hereof. The Purchaser hereby acknowledges and agrees that the key(s) to the Property shall be released to the Purchaser directly from the sales office, or from the Vendor's construction site office, as soon as this transaction has been completed (either on an interim occupancy basis, or on an outright final closing basis), and the Vendor shall not otherwise be required to produce or deliver a key to the Property or the Unit on either of the Firm Occupancy Date or the Delayed Occupancy Date (as the case may be), nor on the Closing Date, nor as part of any tender effected in connection therewith.

Aquabella at Bayside Toronto

Terrace Collection Features and Finishes (Includes Suites 102, 103, 104, 105, 106, GPH01, 206, 306, 406, 506, 606, 706, 806, 906, 1006, PH06, GPH06, 809, 210, 310, 410, 510, 610, 710, 810, 910, 1010, PH10, 912, 1012, PH12, 818, 918, 1018, PH18, GPH18)

SCHEDULE 'B'

1. General

- 1.1 Smooth ceilings painted white to all areas of suite
- 1.2 The ceiling height of suites on floors ground to 6th will be approximately 9'-0" measured from the upper surface of the concrete floor slab to the underside of the concrete ceiling slab, provided however that various areas of the dwelling unit may contain (or be subject to) ceiling bulkheads and/or dropped complete ceilings (included but not limited to bedrooms(s) and den) in order to facilitate the installation of structural components, mechanical systems and/or ductwork, and accordingly in those areas of the unit that are subject to said bulkheads and/or dropped ceilings the overall ceiling height will be reduced accordingly. Ceiling heights for 2 storey suites on the ground floor will be approximately 9'-0" for both the first and second level.
- 1.3 The ceiling height of suites on floors 7th to GPH will be approximately 10'-0" with the exception of Suites 702, 703, 704, 705, 709, 713, 714, 810, 812, 813, 819, 903, 920, 1002, 1010, 1021, PH1, PH11, and PH22 which will feature 9'-0" and suite 902 which will feature 9'-6", measured from the upper surface of the concrete floor slab to the underside of the concrete ceiling slab, provided however that various areas of the dwelling unit may contain (or be subject to) ceiling bulkheads and/or dropped complete ceilings (included but not limited to bedrooms(s) and den) in order to facilitate the installation of structural components, mechanical systems and/or ductwork, and accordingly in those areas of the unit that are subject to said bulkheads and/or dropped ceilings the overall ceiling height will be reduced accordingly.
- 1.4 Interior walls are primed and then painted with two coats of quality latex paint with choice of colour**. Bathroom(s) will be painted with white satin finish paint, and all woodwork and trim painted with durable white semi-gloss paint. Paints have low levels of volatile organic compounds (VOCs).
- 1.5 8'-0" interior contemporary solid core doors with metal lever hardware, with the exception of suites with 9'-0" ceilings which shall have 7'-0" interior contemporary solid core doors with metal lever hardware.
- 1.6 7" paint finish, contemporary styled baseboards with 3/2" matching door casing with backband.
- 1.7 Architecturally designed thermally insulated aluminium window frames with low E coated, argon gas filled, double pane, sealed glazing units, with operable awning windows. Interior window frame color to match exterior window frame color.
- 1.8 White bathroom fixtures throughout.
- 1.9 All balcony areas* to have one exterior electrical receptacle.
- 1.10 Elegant swing closet doors** and/or frosted glass sliding doors* in bedrooms where indicated on plan.
- 1.11 Terrace(s)* will feature one oversized parasol anchored to the structure for overhead sun and rain protection.
- 1.12 Suites will feature central vacuum* system and hose connection.
- 1.13 Two storey suites will feature elegant stairs* with choice of metal handrail and posts or contemporary glass railing with choice of wood steps**.
- 1.14 Two storey suites may feature unique independent elevator* to provide assisted access to upper level. The private elevator (and both the elevator pit and the elevator machine room) shall comprise part of the unit, and the cost of maintaining, repairing and/or replacing shall be borne solely by the unit owner, over and above the common expenses attributable to the unit.

2. Floor Coverings

- 2.1 Premium plank engineered floor** with acoustic underlay to all rooms excluding bathrooms and laundry.
- 2.2 Selection of natural stone or porcelain floor tiles** for master ensuite and powder room(s)*. Designer selected premium porcelain floor tiles** in other bathroom(s) and laundry.

3. Kitchen

- 3.1 Designer kitchen cabinetry** with contemporary, full height flat panel doors complete with built in appliances. Finishes include a selection of matte finish and wood grain laminate or wood veneer. All suites featuring 10'-0" ceiling heights shall feature extended height kitchen cabinets*.
- 3.2 Natural stone or quartz kitchen countertop** and matching backsplash with polished double square edge and deep undermount, stainless steel double bowl sink.
- 3.3 Distinctive multitask island* with waterfall edge countertop with choice of natural stone or quartz.
- 3.4 Polished chrome, single lever Hansgrohe Axor kitchen faucet with integrated pull down spray.
- 3.5 Miele 36" built-in integrated refrigerator with matching panel door.
- 3.6 Miele 30" built-in stainless steel convection wall oven.
- 3.7 Miele 36" built-in gas cooktop.
- 3.8 Miele 24" integrated dishwasher with matching panel door.
- 3.9 24" high efficiency wine fridge.
- 3.10 Built-in stainless steel microwave.
- 3.11 Recessed stainless steel hood fan insert.
- 3.12 Energy saving LED under cabinet lighting.
- 3.13 Recessed LED potlights in kitchen area.

4. Bathroom(s)

- 4.1 Master ensuite bathroom to feature custom vanity with choice of natural stone or quartz countertop with double square edge and undermount rectangular basin, featuring contemporary flat panel cabinetry**. All other bathrooms to feature custom vanity with white quartz countertop.
- 4.2 Bathrooms to feature vanity mirror with integrated lighting.
- 4.3 Master ensuite tub features 5'-6" free standing tub* with wall or floor mounted Hansgrohe Axor faucet where indicated on plan. All other bathroom(s) to feature 5' soaker tub* with polished chrome single lever Hansgrohe Axor faucet and glass enclosure (no door).
- 4.4 Master ensuite bathroom(s) to feature natural stone slab* feature ledge and wall.
- 4.5 Pressure balanced, thermally controlled chrome Hansgrohe Axor shower faucet.
- 4.6 Master ensuite bathrooms to feature a choice of natural stone or porcelain tiles** in shower enclosure*. Other bathrooms to feature porcelain tiles** in tub and shower enclosure* and vanity wall subject to design.
- 4.7 Recessed light in ceiling of shower stalls* and tub(s)*.
- 4.8 Master ensuite bathrooms to feature comfort radiant floor heating.
- 4.9 Energy efficient, low flow Hansgrohe Axor shower head(s).
- 4.10 Master ensuite bathroom(s) to feature Hansgrohe Axor polished chrome wall mounted vanity faucet. All other bathrooms to feature Hansgrohe Axor polished chrome wide spread vanity faucet.
- 4.11 Low-flow high performance toilet(s).
- 4.12 Shower stall(s) feature frameless glass enclosure with chrome hardware.

5. Powder Room(s)

- 5.1 Custom vanity with choice of natural stone or quartz countertop with semi recessed sink, featuring flat panel cabinetry**.
- 5.2 Vanity mirror with integrated lighting.
- 5.3 Hansgrohe Axor polished chrome wall mounted vanity faucet in bathroom(s).
- 5.4 Low-flow high performance toilet(s).

5. Laundry

- 5.1 Heavy-duty wiring and receptacle for dryer.
- 5.2 Stacked or side by side white front loading dryer and Energy Star high efficiency front loading washer (complete with stainless steel flexible hose water connections).
- 5.3 Stainless steel laundry sinks** complete with upper and lower cabinetry, with white quartz countertop and pull down spray faucet.

6. Safety and Security

- 6.1 Concierge monitoring community access systems including two-way communication from selected zones in underground garage and entry areas.
- 6.2 Personally encoded suite intrusion alarm system integrated with Tridel Smart Suite wall pad and connected to Concierge station and your smart phone. Door security monitored by concierge.
- 6.3 Exterior doors and operable windows at grade connected to suite alarm system* for enhanced security.
- 6.4 Access control system located in the lobby vestibule and at visitor's main entry points permits guests to communicate with residents from the building entrance(s).
- 6.5 Surveillance cameras in selected locations at the points of access to the building and garage may be monitored by the Concierge and can be viewed on Tridel Smart Suite wall pad and mobile app.
- 6.6 Smartphone access to common area entrances and automated garage door opening and closing.
- 6.7 In-suite sprinkler system complete with concealed heads and/or drywall window valences*.
- 6.8 Hard wired smoke alarm(s), fire alarm speaker and Carbon monoxide detector*.
- 6.9 Suites to feature a Tridel Smart Suite wall pad with integrated smartphone functionality. The Tridel Smart Suite system is an inter-community video communication platform with integrated suite security and a scalable solution for smart home features.
- 6.10 Suite entry door(s) will feature a digital door lock system, enabling an enhanced level of suite access control, to be operated and managed with programmable digital codes, smart phone device or conventional fobs.
- 6.11 Parking garage to feature an automated license plate recognition system to manage access and security into the garage.
- 6.12 Integrated electronic lockers will assist the community with managing package delivery.

7. Comfort System

- 7.1 Vertical and/or horizontal VRF (variable refrigerant flow) heating and air conditioning system for year round seasonal comfort.
- 7.2 Individual metering of electricity, water, gas** heating and cooling consumption.
- 7.3 Superior air filter media for use in VRF Unit.
- 7.4 Central building water filtration system.

8. Electrical Service and Fixtures

- 8.1 Individual service panel with circuit breakers.
- 8.2 Designer series receptacles and switches throughout.
- 8.3 Energy efficient light fixtures in foyer, hallway(s), walk-in closet(s)*, bedroom(s), kitchen, breakfast area*, den* and study*.
- 8.4 Capped ceiling light outlet in the main living area*.
- 8.5 Lighting fixtures complete with long-lasting, energy saving lamps.

9. Communications

- 9.1 Fiber optic cabling to each suite (complete with in-suite junction box with optical media converter).
- 9.2 Ethernet cable wiring to living room, den* or study (if applicable) and bedroom(s).
- 9.3 Commercial grade Wifi will be provided in common area amenities.
- 9.4 Community will be equipped with a neutral DAS (Distributed Antenna System) to support the transmission of cell signals from multiple carriers within the building to ensure cell coverage.
- 9.5 Access to Waterfront Toronto's open access, ultra high speed fibre optic broadband community network, provided by Beantfield Metroconnect.

* - denotes availability determined by suite design. ** - denotes finishes to be selected from the vendor's samples

All features and finishes subject to change without notice, E. & O.E. May 5, 2017

TRIDEL | *lines*

BAYSIDE TORONTO
Schedule C1



LEGEND

- SP - Smart Wall Pad
- CP - Communication Panel
- EP - Electrical Panel
- ERV - Energy Recovery Ventilator
- FC - Fan Coil
- CMF - Ceiling Mounted Fan Coil
- F - Fridge
- WF - Wine Fridge
- DW - Dishwasher
- WO - Wall Oven
- OB - Oven Below
- WD - Washer / Dryer
- P - Pantry
- WIC - Walk in Closet
- L - Linen
- GC - Exterior Gas Connection
- HB - Hose Bib
- EUP - Exclusive Use Planter
- CAP - Common Area Planter
- *Note: - Grey Shaded Areas Indicate Reduced Ceiling heights

FLOOR GPH

01

GPH1

Purchaser _____ Date _____
 Acknowledgement GPH1
 Municipal Number: _____

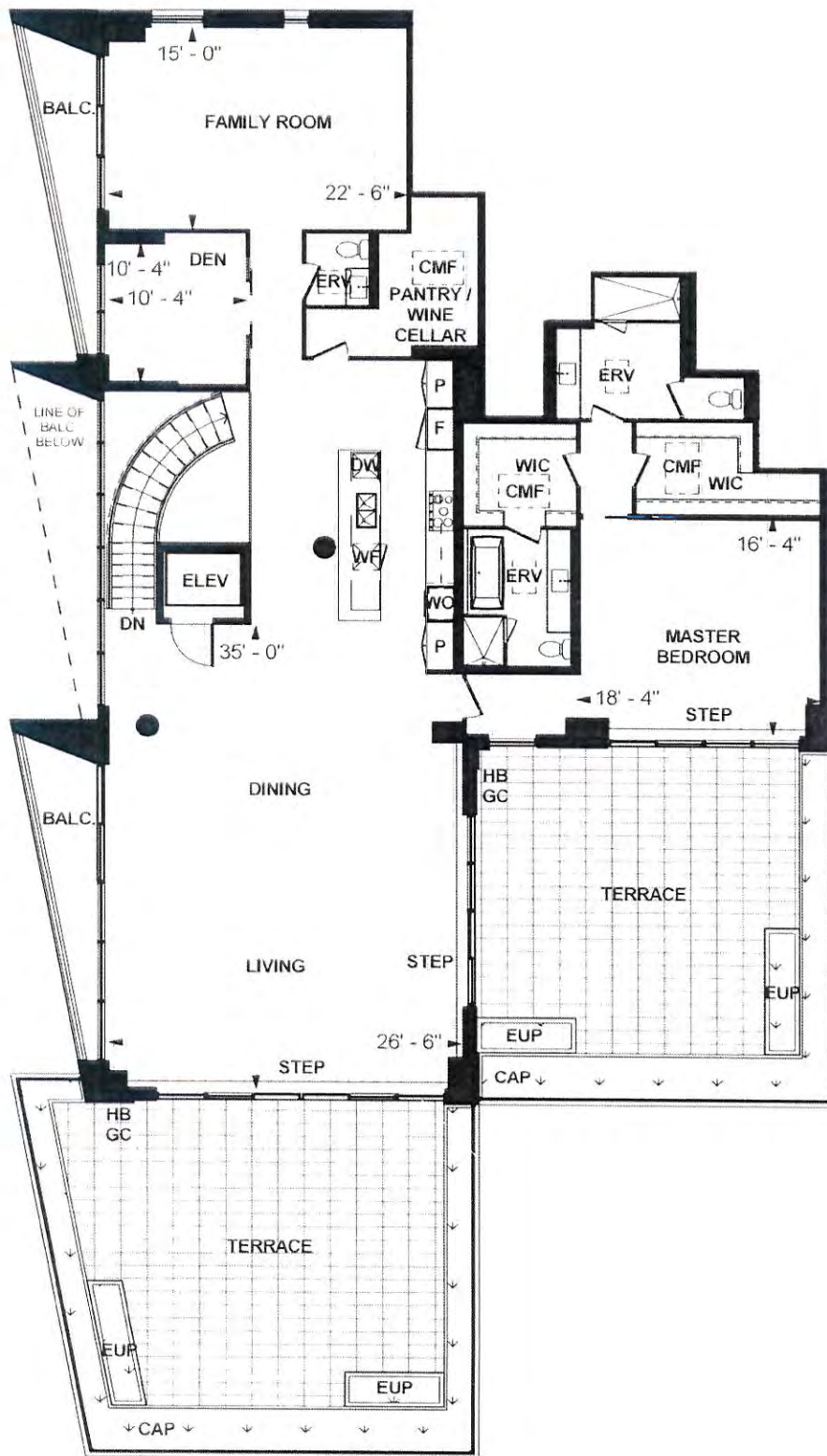
Materials, specifications, floor plans and dimensions are subject to change without notice. Window size and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and balcony areas subject to change. E. & O. E.



October 19, 2016

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BAYSIDE TORONTO
Schedule C1



FLOOR GPH UPPER

01

GPH1

Purchaser _____ Date _____
Acknowledgement _____
Municipal Number: GPH1

Materials, specifications, floor plans and dimensions are subject to change without notice. Window size and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and balcony areas subject to change. E. & O. E.

TRIDEL | Hines

October 19, 2016

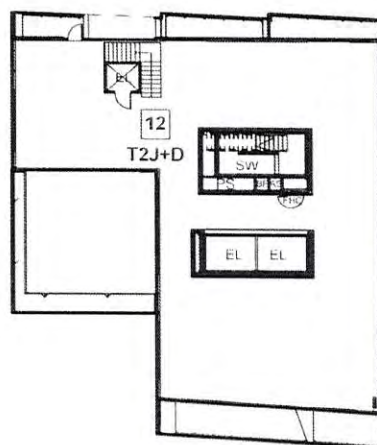
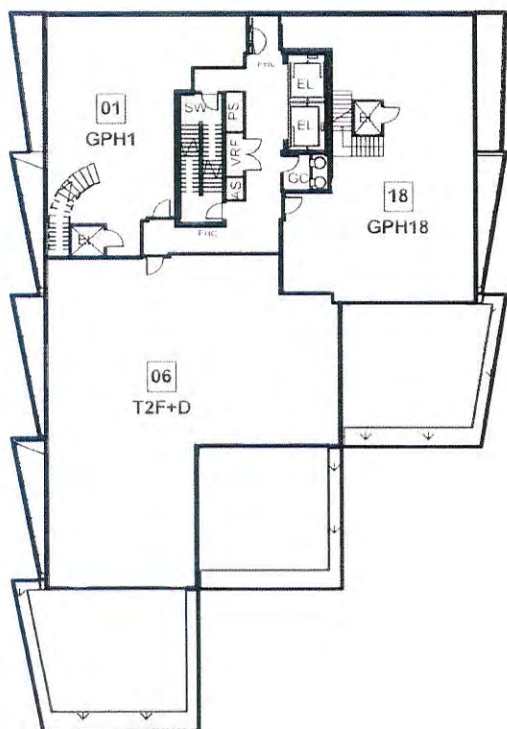


LEGEND

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- WO - Wall Oven
- OB - Oven Below
- W/D - Washer / Dryer
- P - Pantry
- WIC - Walk in Closet
- L - Linen
- GC - Exterior Gas Connection
- HB - Hose Bib
- EUP - Exclusive Use Planter
- CAP - Common Area Planter
- *Note: -Grey Shaded Areas Indicate Reduced Ceiling heights

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BAYSIDE TORONTO
 Schedule C2
 FLOOR GPH



LEGEND

- EL - Elevator
- SW - Stairwell
- FHC - Fire Hose Cabinet
- GC - Garbage Compactor
- AS - Air Shaft
- PR - Pipe Riser
- EC - Electrical Closet
- VRF - Variable Refrigerant Flow Closet
- BF - Boiler Flues
- PS - Pipe Space

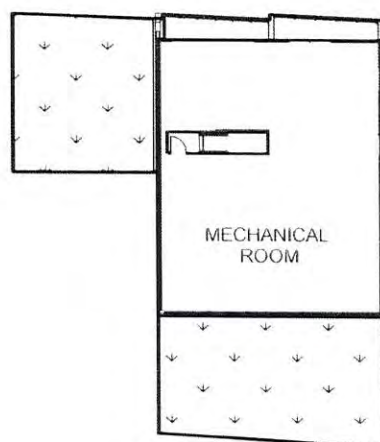
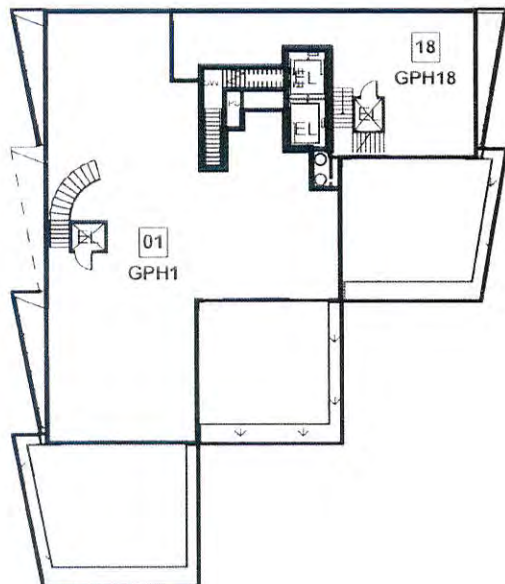


Purchaser Acknowledgement
 Date: GPH1
 Municipal Number: _____

Materials, specifications, floor plans and dimensions are subject to change without notice. Window size and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and balcony areas subject to change. E. & O. E.

October 19, 2016

BAYSIDE TORONTO
Schedule C2
FLOOR GPH UPPER



LEGEND

- EL - Elevator
- SW - Stairwell
- FHC - Fire Hose Cabinet
- GC - Garbage Compactor
- AS - Air Shaft
- PR - Pipe Riser
- EC - Electrical Closet
- VRF - Variable Refrigerant Flow Closet
- BF - Boiler Flues
- PS - Pipe Space



Purchaser Acknowledgement
Municipal Number: CIPH1

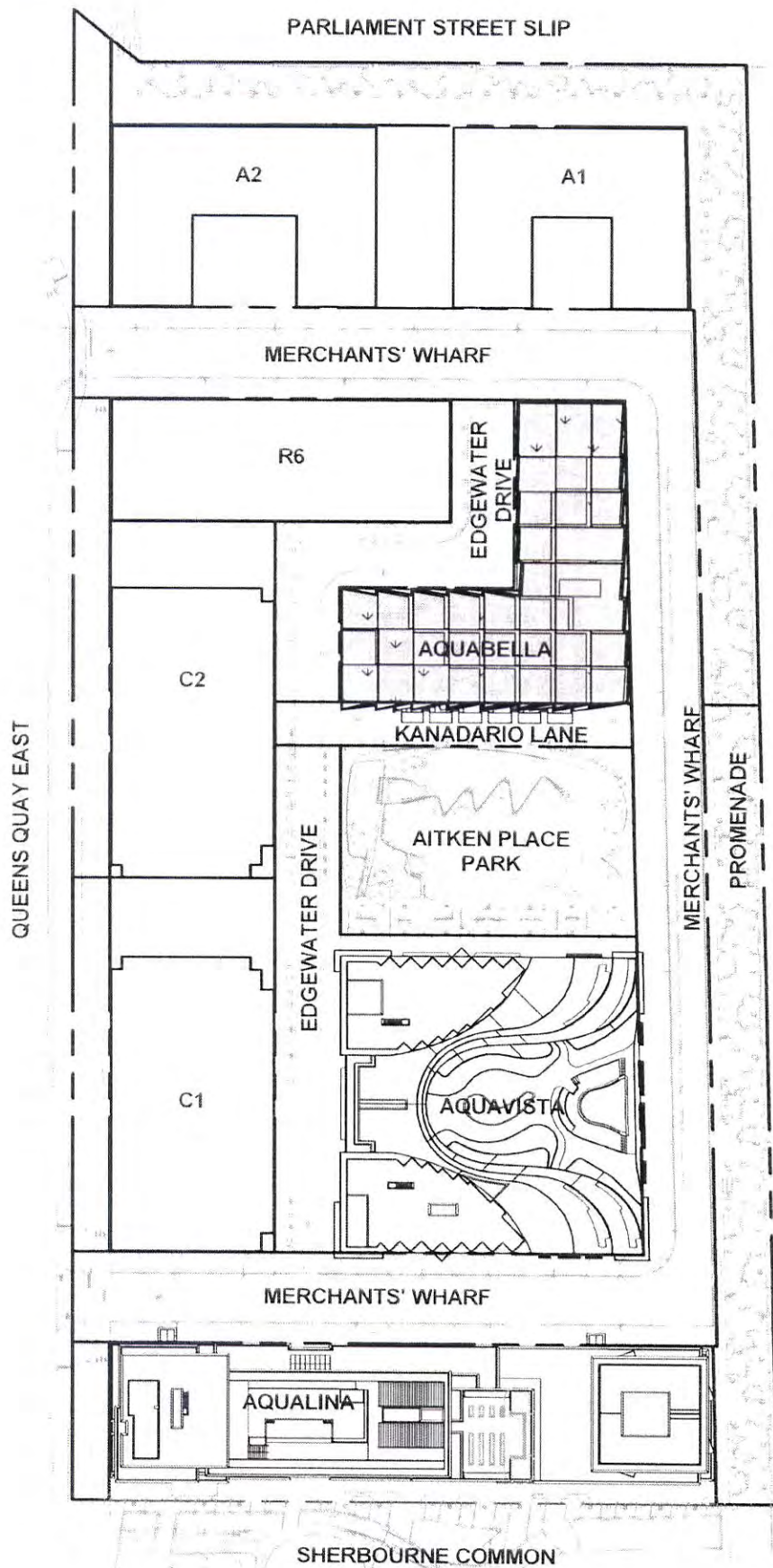
Date

Materials, specifications, floor plans and dimensions are subject to change without notice. Window size and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and balcony areas subject to change. E & O E.

October 19, 2016

BAYSIDE TORONTO

Schedule D



Purchaser	Date
Acknowledgement	CPHI
Municipal Number:	

Materials, specifications, floor plans and dimensions are subject to change without notice. Window size and type may vary. Actual usable floor space may vary from the stated floor area. Landscaping, patio and balcony areas subject to change. E & O E.



TRIDEL | Hines

October 19, 2016

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SCHEDULE "LRA" – PURCHASER'S LIMITED RIGHT OF ASSIGNMENT

Notwithstanding anything to the contrary contained in the agreement of purchase and sale to which this schedule is annexed (the "Purchase Agreement"), and despite the fact that the Purchaser has warranted to the Vendor that the Purchaser is acquiring the Property for the personal use of the Purchaser (or for one or more members of the Purchaser's immediate family), the parties hereto hereby confirm and agree to the following:

1. The Purchaser shall be permitted to assign the Purchaser's rights and interests in and to the Property arising under the Purchase Agreement, to one or more third parties (hereinafter collectively referred to as the "New Purchaser" or the "Assignee"), but only:
 - a) if the Unit has not been listed for sale or lease, and has not been advertised for sale or lease, by or on behalf of the Purchaser, in contravention of the provisions of section 2.01 of Schedule "A" to the Purchase Agreement; and
 - b) in accordance with the terms and provisions of the Vendor's form of addendum confirming new purchaser, a copy of which is attached hereto (hereinafter referred to as the "Addendum Confirming New Purchaser"), and only if and when each of the following matters has been completed or satisfied, namely:
 - i) the Purchaser has obtained or received the requisite mortgage approval from the First Mortgagee, or from any other financial institution or lender satisfactory to the Vendor in its sole and unchallenged discretion, as expressly contemplated by section 2.02 and section 2.03 of Schedule "A" to the Purchase Agreement;
 - ii) all deposit monies required to be paid by or on behalf of the Purchaser on account of the Purchase Price, save and except for those deposit monies that are due and payable on the Firm Occupancy Date, have been duly paid and remitted to the Vendor's solicitor (unless the Purchaser's desired assignment to the New Purchaser occurs after the interim closing date, in which case all deposit monies, including the deposit monies due and payable on the Firm Occupancy Date, have been duly paid and remitted to the Vendor's solicitor); and
 - iii) both the Purchaser and the New Purchaser have executed the Addendum Confirming New Purchaser without any alteration or amendment thereto whatsoever, and have delivered same to the Vendor's sales agent or representative for ultimate execution by the Vendor, at least:
 - A) 60 days prior to the Firm Occupancy Date, if any such assignment is intended to take place on or before the interim occupancy closing of this transaction; or
 - B) 60 days prior to the Closing Date, if any such assignment is intended to take place on or before the final closing of this transaction, in those circumstances where no prior interim occupancy closing has taken place (or is intended to take place), but rather only an outright or straight final closing is intended.
2. Without limiting the generality of the foregoing, it is understood and agreed that if the Unit has been listed for sale or lease and/or has been advertised for sale or lease, by or on behalf of the Purchaser, at any time prior to the final closing of this purchase and sale transaction, then not only will the Purchaser be automatically precluded from forever exercising the right of assignment outlined in this Schedule, but should the Vendor choose to waive such default and proceed to complete this transaction with the Purchaser (rather than terminate this transaction as a consequence of the Purchaser's default, pursuant to the provisions of section 2.01 of Schedule "A"), then the Purchaser shall be charged in the statement of adjustments on final closing with an amount equivalent to the aggregate of the HST new housing rebates that would otherwise have been applicable [and which charge to the Purchaser reflects the fact that the act of listing or advertising the Unit for sale or lease constitutes prima facie evidence that the Purchaser had no intention of ever occupying the Unit as the Purchaser's primary place of residence, and that the Purchaser therefore does not (or may not) qualify for said rebates].
3. Notwithstanding anything contained in this Schedule to the contrary, it is understood and agreed that this Schedule "LRA" shall be deemed and construed to be inapplicable to the purchase and sale transaction involving the New Purchaser and the Vendor, and shall not be effective or enforceable by the New Purchaser despite any Addendum Confirming New Purchaser that may be executed in accordance with the foregoing provisions hereof, and accordingly **the New Purchaser shall not have any right to assign the Purchase Agreement, nor his or her rights and interests in and to the Property under (or by virtue of) the Purchase Agreement, to any third party or parties, without the Vendor's prior written consent thereto.**
4. All terms and provisions contained in the Purchase Agreement, save and except for those which conflict with (or are inconsistent with) the foregoing terms and provisions of this Schedule, shall remain the same, and shall continue to be binding upon each of the parties hereto and their respective heirs, estate trustees, successors and permitted assigns. Without limiting the generality of the foregoing, and for greater clarity, it is understood and agreed that the Purchaser shall not list the Property (or any portion thereof) for sale or lease on the Multiple Listing Service or on the internet (including facebook, instagram, snapchat, twitter or any other similar publicly-accessed medium over the internet), nor publicly advertise the Property for sale or lease, notwithstanding the foregoing limited right of assignment.
5. Time shall be of the essence with respect to the fulfilment and completion of all covenants and obligations herein contained.
6. This Schedule shall be read and construed with all changes of gender and/or number as may be required by the context.
7. A photocopy, a telefaxed copy or scanned e-mailed copy of this fully executed Schedule may be relied upon to the same extent as an originally-executed version.

**ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE STATEMENT
AND ACCOMPANYING CONDOMINIUM DOCUMENTS
PERTAINING TO THE AQUABELLA AT BAYSIDE TORONTO CONDOMINIUM PROJECT**

RE: Aquabella Bayside Toronto Inc. (the "**Vendor**" or the "**Declarant**") sale to Mahal Venture Capital Inc. of dwelling unit no. 1 on level 12, in a proposed residential condominium developed by the Declarant and marketed as "**Aquabella at Bayside Toronto**" (hereinafter called this or the "**Condominium**") on the lands and premises municipally located at 118 Merchants Wharf (or such other address as the City of Toronto may hereafter designate), Toronto, Ontario (hereinafter called the "**Condominium Lands**" or the "**Real Property**")

THE UNDERSIGNED, being the Purchaser of the above-noted unit, **hereby acknowledges receipt of the current disclosure statement** for the Condominium prepared in accordance with the provisions of the *Condominium Act 1998, S.O. 1998, as amended*, and the regulations promulgated thereunder (hereinafter collectively referred to as the "**Act**"), and containing, amongst other things, a **table of contents** located at the beginning of the disclosure statement, along with **Schedule "A"** thereto (being a site plan sketch depicting the site of this Condominium in relation to the surrounding lands), **Schedule "B"** thereto (being the proposed rules governing the use of the units and common elements), and **Schedule "C"** thereto (being the proposed rules governing the use of the recreational facilities), together with the following documents pertaining to this Condominium, namely:

- 1) The proposed declaration;
- 2) The proposed by-law no. 1 (being a general organizational by-law, and which includes, amongst other things, the standard unit definition for repair and insurance purposes, and proposed procedures for the mediation and arbitration of disputes);
- 3) The proposed by-law no. 2 [authorizing the Condominium's execution of a shared facilities agreement pertaining to the use, operation, insurance, maintenance and/or repair of various shared facilities, services, easement areas, building components and/or equipment (hereinafter collectively referred to as the "**Shared Facilities**") intended to be shared by and amongst any two or more (or all of) this Condominium, the Daycare Centre Owner and the Retail Component Owner (as such terms are respectively defined in this Condominium's declaration), and which agreement governs the sharing, allocation and payment of the costs of operating, maintaining and repairing the Shared Facilities (hereinafter collectively referred to as the "**Shared Facilities Costs**")];
- 4) The proposed by-law no. 3 [authorizing the Condominium's execution of a shared roadway agreement pertaining to the illumination, insurance, operation, maintenance and/or repair of the Shared Roadway (as such term is defined in this Condominium's declaration), intended to be shared initially by and amongst this Condominium, the Daycare Centre Owner and the Retail Component Owner (as such terms are respectively defined in this Condominium's declaration), and which agreement governs the sharing, allocation and payment of the costs of illuminating, insuring, operating, maintaining and repairing the Shared Roadway (hereinafter collectively referred to as the "**Shared Roadway Costs**")];
- 5) The proposed by-law no. 4 [authorizing the Condominium's execution of a counterpart to the Aquavista Roadway Agreement (as such term is defined in this Condominium's declaration) pertaining to the illumination, insurance, operation, maintenance and/or repair of the Westerly Edgewater Section (as such term is defined in this Condominium's declaration), and which agreement governs the sharing, allocation and payment of the costs of illuminating, insuring, operating, maintaining and repairing the Westerly Edgewater Section (hereinafter collectively referred to as the "**Shared Westerly Edgewater Section Costs**"), and which counterpart agreement obliges this Condominium, amongst other things, to pay its Proportionate Westerly Roadway Share (as such term is defined in this Condominium's declaration) of the Shared Westerly Edgewater Section Costs];
- 6) The proposed by-law no. 5 [being a by-law authorizing the Corporation to enter into an assumption agreement with the Declarant, and with Toronto Waterfront Revitalization Corporation (hereinafter referred to as "**Waterfront Toronto**") as a party (but not as a signatory) thereto (but nevertheless enforceable by Waterfront Toronto against this Condominium directly), pursuant to which the Corporation shall formally assume (and be bound by, and comply with) all outstanding and/or ongoing covenants and obligations of the Declarant arising under the Development Agreement (as such term is defined in this Condominium's declaration) relating or pertaining to this Condominium];
- 7) The proposed by-law no. 6 [being a by-law authorizing the Corporation to enter into an assumption agreement with the Declarant, and with Waterfront Toronto, the City of Toronto and Redpath Sugar Ltd. ("**Redpath**") as parties (but not as signatories) thereto (but nevertheless enforceable by each of Waterfront Toronto, the City of Toronto and Redpath against this Condominium directly), pursuant to which the Corporation shall be obliged to operate, maintain, repair and replace the carbon or other odour-absorptive filter system installed by the Declarant within each of the dwelling units in this Condominium, in accordance with the manufacturer's specifications, and pursuant to a maintenance protocol developed in accordance with the requirements of the air and/or noise emissions study approved or accepted by the City of Toronto, all in an effort to mitigate or reduce the impact of noises and/or odours emanating from the nearby Redpath facility];
- 8) The proposed by-law no. 7 [being a by-law authorizing the Corporation to enter into an assumption agreement with the Declarant, and with the City of Toronto as a party (but not as a signatory) thereto (but nevertheless enforceable by the City of Toronto against this Condominium directly), pursuant to which the Corporation shall formally assume all outstanding and ongoing obligations and liabilities of the Declarant arising under an outstanding section 37 density bonus/development agreement, an outstanding site plan agreement, an outstanding subdivision agreement, an outstanding transfer of easement and/or condominium agreement, and an outstanding encroachment agreement entered into with the City of Toronto (hereinafter collectively referred to as the "**Outstanding Municipal Agreements**"), insofar as same relate or pertain to this Condominium, or any portion thereof];
- 9) The proposed by-law no. 8 [being a by-law authorizing the Corporation to enter into either the Ground Water Discharge Agreement or the Ground Water Discharge Assumption Agreement (as such terms are respectively defined in this Condominium's declaration), and with the City of Toronto as a party (but not necessarily as a signatory) thereto (but nevertheless enforceable by the City of Toronto against this Condominium directly), pursuant to which the Corporation shall formally assume all outstanding and ongoing obligations and liabilities of the Declarant arising under the Ground Water Discharge Agreement, including any assignment and/or assumption agreement with respect to same, pertaining to the ground water that emanates from or through this Condominium's building foundation (and/or its appurtenant drainage system) and which will ultimately be discharged directly into the City of Toronto's storm sewer system, once same has been filtered and cleansed by and through the permanent ground water filtration and drainage system so installed by the Declarant within the confines of this Condominium];
- 10) The proposed by-law no. 9 [being a by-law authorizing the Corporation to enter into a parking license agreement with the City of Toronto (in its capacity as the Daycare Centre Owner) as the licensor, to and in favour of the Corporation as the licensee, pursuant to which the Condominium will be granted a license, for nil consideration, to use the Daycare Centre Owner's 3 designated parking units situate on level A within this Condominium (the "**Daycare Centre Parking Units**") when the Daycare Centre is not in operation, namely from 7:00 p.m. to 7:00 a.m., weekdays and all throughout every weekend and all statutory holidays (hereinafter collectively referred to as the "**Licensed Hours**" or the "**Condominium's Visitor Hours**"), as additional visitor parking to accommodate any visitors to this Condominium];



11. The proposed by-law no. 10 [being a by-law authorizing the Corporation to enter into an assumption agreement with the Declarant (and with Beanfield Metroconnect WI Inc. (hereinafter referred to as **"Beanfield"**) as a party (but not as a signatory), thereto (but nevertheless enforceable by Beanfield against this Condominium directly), pursuant to which the Corporation shall formally assume (and be bound by, and comply with) all outstanding and/or ongoing covenants and obligations of the Declarant arising under a bulk internet service agreement entered into with Beanfield, governing Beanfield's provision of broadband internet and other telecommunication services to this Condominium, and correspondingly confirming that Beanfield shall have an easement or right-of-way over, under, upon, across and through the common elements of this Condominium, for the purposes of facilitating the installation, operation, maintenance and/or repair of its broadband internet telecommunication lines, cables and appurtenant equipment];
12. The proposed rules governing the use and enjoyment of the units and common elements within this Condominium;
13. The proposed rules governing the use and enjoyment of the recreational facilities available to the residents of this Condominium;
14. The proposed management agreement, between the Condominium and Del Property Management Inc.;
15. The proposed utility monitoring agreement, between the Condominium and Provident Energy Management Inc.;
16. The proposed electricity monitoring agreement, between the Condominium and Toronto Hydro-Electric Service Limited;
17. The proposed agreement to provide natural gas, between the Condominium and Canadian Riterate Energy Corporation;
18. The proposed agreement to provide energy management services, between the Condominium and Provident Energy Management Inc.;
19. The proposed insurance trust agreement, by and amongst the Condominium, the Daycare Centre Owner, the Declarant (in its capacity as the Retail Component Owner) and The Canada Trust Company;
20. The proposed trademark license agreement, between the Condominium and the Declarant, entitling this Condominium to use the trademark or tradename **"Aquabella"**; and
21. The proposed budget statement for the one year period immediately following the registration of this Condominium [inclusive of the Two-Way Shared Facilities Budget, the Three-Way Shared Facilities Budget and the Shared Roadway Budget (as such terms are respectively defined in this Condominium's declaration) annexed thereto as Schedules "H", "I" and "J" respectively].
22. Revised Schedule of Common Element Assessments and Schedule "D1" and "D2" to the declaration, dated May 5, 2017, outlining the proportionate common interest and common expenses attributable to each of the units in this condominium.

THE PURCHASER is hereby advised that the disclosure statement contains a table of contents located at the beginning of same (being a guide to where the disclosure statement deals with some of the more common areas of concern to unit purchasers, and intended to facilitate the review of the information contained in the disclosure statement and the condominium documents accompanying same), and expressly discloses or includes, amongst other things, the following information:

- a) the name and municipal address of the Declarant and the mailing and municipal address of the Condominium (if available);
- b) a general description of the Condominium property, including the types and number of buildings, units, recreational and other amenities (if any) to be provided by the Declarant (together with any conditions that apply to the provision of same), and a statement of the proposed commencement and completion dates in respect of any such amenities that are not fully completed or operational;
- c) a statement of the portion of units or proposed units which the Declarant intends to market in one or more blocks of units to investors;
- d) a brief description of the significant features of the proposed management agreement, utility monitoring agreement and the agreement to provide energy management services and all other agreements intended to be entered into by or on behalf of this Condominium shortly after registration, for the provision of goods or services to the Condominium on a continuing basis; and
- e) a budget statement for the first year following the registration of this Condominium.

THE UNDERSIGNED hereby acknowledges that the purpose of the disclosure statement is to enable the Purchaser to review the relevant documents which will govern the Condominium, and to provide the Purchaser with the requisite information to enable the Purchaser to make an informed decision as to whether or not to proceed with the completion of the above-noted purchase and sale transaction. *If the Purchaser has received the foregoing documentation on a computer disc or USB key, then the Purchaser acknowledges that copies of all of the foregoing documents are also available in paper format at any time, free of charge, upon the Purchaser's request for same. The Purchaser hereby consents to receiving the disclosure statement and the accompanying documents in electronic format.*

THE UNDERSIGNED further acknowledges that the Purchaser shall be entitled to rescind or terminate the agreement of purchase and sale entered into with the Vendor in connection with the above-noted purchase and sale transaction (the "Purchase Agreement"), and obtain a refund of all deposit monies paid thereunder (together with all interest accrued thereon at the rate prescribed by the Act, if applicable), provided written notice of the Purchaser's desire to so rescind or terminate the Purchase Agreement is delivered to the Vendor or the Vendor's solicitor within 10 days after the later of:

- i) the date set out below (evidencing and confirming the date of the Purchaser's receipt of the current disclosure statement, including all of the foregoing accompanying documents); and
- ii) the date of the Purchaser's receipt of a copy the Purchase Agreement duly executed by both the Purchaser and the Vendor.

DATED this 30th day of August, 2017



 WITNESS
 (as to all Purchasers' signatures, if more than one Purchaser)

Mahal Venture Capital Inc.
 Per: 

 Authorized Signing Officer
 I have authority to bind the Corporation

This is Exhibit "2A" referred to in the Affidavit
of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)

TRUST AGREEMENT

BETWEEN:

SANTOKH MAHAL
Beneficial Owner

- and -

MAHAL VENTURE CAPITAL INC.
Trustee

WHEREAS, SANTOKH MAHAL, desires to purchase the property municipally known as Suite GPH1, 118 Merchants' Wharf, Toronto, Ontario.

AND WHEREAS SANTOKH MAHAL, and MAHAL VENTURE CAPITAL INC., desire and agree that **MAHAL VENTURE CAPITAL INC.,** take title to this property in trust and on behalf of **SANTOKH MAHAL,** until such time that **SANTOKH MAHAL,** directs **MAHAL VENTURE CAPITAL INC.,** to transfer title to the property legally described as Aquabella GPH1 (the condominium), and municipally known as Suite GPH1, 118 Merchants' Wharf, Toronto, said time not to be later than five years from date of execution.

AND WHEREAS SANTOKH MAHAL and MAHAL VENTURE CAPITAL INC. have agreed to certain terms and provisions as hereinafter set forth.

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the

mutual covenants, conditions and agreements herein contained, the parties hereto do hereby each covenant and agree with the other as follows:

MAHAL VENTURE CAPITAL INC., (hereinafter referred to as the “**Trustee**”) agrees to take title of **Suite GPH1, 118 Merchants’ Wharf, Toronto**, in trust for **SANTOKH MAHAL** of the City of Mississauga, in the Regional Municipality of Peel (hereinafter referred to as the “**Beneficial Owner**”) until such time as **SANTOKH MAHAL** directs **MAHAL VENTURE CAPITAL INC.**, in writing to transfer title to **SANTOKH MAHAL**, said time not to be later than five years from date of execution.

SANTOKH MAHAL agrees to pay all carrying costs in regards to **Suite GPH1, 118 Merchants’ Wharf, Toronto**, including mortgage payments, taxes, utilities until the property is transferred to **SANTOKH MAHAL** from **MAHAL VENTURE CAPITAL INC.**.

SANTOKH MAHAL agrees to indemnify and save harmless **MAHAL VENTURE CAPITAL INC.** from all actions, lawsuits and claims incurred by **MAHAL VENTURE CAPITAL INC.** in regards to any liens or carrying costs incurred in paying any carrying costs for the said property.

MAHAL VENTURE CAPITAL INC. agrees to indemnify and save harmless **SANTOKH MAHAL** from any lawsuits, liens, or executions registered against **[Insert Address]**, **Toronto** incurred by **MAHAL VENTURE CAPITAL INC.** not arising from any

carrying cost in regards to the said property and **MAHAL VENTURE CAPITAL INC.** agrees to discharge any such lien or execution so registered against the said property.

SANTOKH MAHAL agrees to provide the full cash down payment and to pay all legal fees and disbursements including land transfer tax incurred in purchasing the property and further agrees to pay all fees and disbursements incurred in transferring title from **MAHAL VENTURE CAPITAL INC.** to **SANTOKH MAHAL**.

SANTOKH MAHAL and **MAHAL VENTURE CAPITAL INC.** agree to execute all documentation required to purchase the property, finalize any mortgage financing commitment and to transfer title from **MAHAL VENTURE CAPITAL INC.** to **SANTOKH MAHAL**.

MAHAL VENTURE CAPITAL INC. agrees to transfer title which he holds in trust for **SANTOKH MAHAL** who shall retain the beneficial interest in the property forthwith upon **SANTOKH MAHAL** so directing and **MAHAL VENTURE CAPITAL INC.** acknowledges that he takes title to the property in trust on behalf of **SANTOKH MAHAL**.

SANTOKH MAHAL and **MAHAL VENTURE CAPITAL INC.** agree that the terms of the herein agreement shall enure to the benefit of their respective successors, assigns, heirs and legal representatives and shall be binding upon them.

IN WITNESS WHEREOF the respective signatures of the herein parties dated at this 7
day of July, 2017

Witness: 
_____ **SANTOKH MAHAL**

Witness: 
_____ **MAHAL VENTURE CAPITAL INC.**

DATED: 7 day of July 2017

TRUST AGREEMENT

BETWEEN:

SANTOKH MAHAL
Beneficial Owner

- and -

MAHAL VENTURE CAPITAL INC.
Trustee

6845 Second line West, Mississauga Ontario.

This is Exhibit "2B" referred to in the Affidavit of
Santokh Mahal sworn January 20, 2022

Commissioner for Taking Affidavits (or as may be)

NEIL L. BOYKO, B.A., LL.B.

BARRISTER, SOLICITOR AND NOTARY

98

TEL: (416) 743-3232
FAX: (416) 743-5034
lawckerk@neilboykolaw.com

3500 DUFFERIN STREET
SUITE 303
TORONTO, ONTARIO
M3K 1N2

STATEMENT OF ACCOUNT

July 31, 2017

Mr. J. Mahal and S. Mahal
6845 Second Line W
Mississauga, Ontario
L5W 1M8

Dear Sir:

Re: MAHAL PURCHASE FROM AQUABELLA BAYSIDE TORONTO SUITE GPH1.
118 MERCHANTS' WHARF TORONTO, ONTARIO

FOR SERVICES RENDERED IN THE ABOVE MATTER
INCLUDING,

To writing and receiving letters	3 hrs
To receiving closing documents from vendors solicitor having you sign same	.05 hrs
To all meetings with you	.05 hrs
To all calls with you and the solicitor for the vendor	1 hrs
To drafting trust agreement	1 hrs
TOTAL TIME THIS BILL	6 hrs


My Fees herein at the rate of \$490.00 p/h **2,940.00**

DISBURSEMENTS SUBJECT TO HST

Paid for all searches	286.30
Paid clerk's fees	375
Paid for photocopies, fax, telephone	50
HST 13%	92.47
	<u>803.77</u>

TOTAL OWING TO NEIL L. BOYKO **\$3,743.77**

THIS IS MY ACCOUNT
NEIL L. BOYK

Per: 

NLB/gr

This is Exhibit "3" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)

Ministry of Government and
Consumer Services

Profile Report

R.J. INTERNATIONAL CORPORATION as of January 17, 2022

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	R.J. INTERNATIONAL CORPORATION
Ontario Corporation Number (OCN)	1875617
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	June 06, 2012
Registered or Head Office Address	800 Swinbourne Dr, Mississauga, Ontario, Canada, L5V 1J6

Certified a true copy of the record of the Ministry of Government and Consumer Services.

A handwritten signature in cursive script that reads "Barbara Duckitt".

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)

Minimum Number of Directors	1
Maximum Number of Directors	1

Name	Santokh Singh MAHAL
Address for Service	800 Swinbourne Dr, Mississauga, Ontario, Canada, L5V 1J6
Resident Canadian	Yes
Date Began	June 06, 2012

Certified a true copy of the record of the Ministry of Government and Consumer Services.

Barbara Duckitt

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Officer(s)

There are no active Officers currently on file for this corporation.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

Barbara Duckitt

Director/Registrar

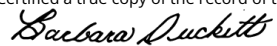
This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Corporate Name History**Name****Effective Date**

R.J. INTERNATIONAL CORPORATION

June 06, 2012

Certified a true copy of the record of the Ministry of Government and Consumer Services.



Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

Barbara Duckitt

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

Barbara Duckitt

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

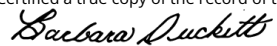
Document List**Filing Name**

BCA - Articles of Incorporation

Effective Date

June 06, 2012

Certified a true copy of the record of the Ministry of Government and Consumer Services.



Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

This is Exhibit "4" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)

Your branch address:

6085 CREDITVIEW RD, UNIT 1
MISSISSAUGA, ON L5V2A8

Business Banking



Your Branch
CREDITVIEW & BRITANNIA
Transit number: 3710

For questions about your statement call
(905) 567-5146

Direct Banking
1-877-262-5907
www.bmo.com

Your Plan
Business Builder 1 Plan

R.J. INTERNATIONAL CORPORATION
800 SWINBOURNE DR
MISSISSAUGA ON L5V 1J6

Business Banking statement

For the period ending October 31, 2017

Summary of account

Account	Opening balance (\$)	Total amounts debited (\$)	Total amounts credited (\$)	Closing balance (\$) on Oct 31, 2017
---------	----------------------	----------------------------	-----------------------------	--------------------------------------

Business Account # 3710 1994-680



October is Cyber Security Month. Protect yourself and only download from trustworthy sites. Visit bmo.com/security for security tips, software and information about how the bank keeps your information safe from criminals.

Transaction details

Date	Description	Amounts debited from your account (\$)	Amounts credited to your account (\$)	Balance (\$)
------	-------------	--	---------------------------------------	--------------

Business Account # 3710 1994-680



Business name:
R.J. INTERNATIONAL CORPORATION

Sep 30 Opening balance

Oct 24				
Oct 24				
Oct 24				
Oct 24				
Oct 25				
Oct 25				
Oct 25	Canadian Draft, DRAFT		158,251.39	
Oct 25				
Oct 31				
Oct 31				
Oct 31				

continued

BMO Bank of Montreal · Banque de Montréal

CANADIAN \$ DRAFT / TRAITE EN DOLLARS CANADIENS

CREDITVIEW AND BRITANNIA
6085 CREDITVIEW RD, UNIT 1
MISSISSAUGA, ONTARIO, CANADA L5V 2A8

087460

DATE 2017 10 25
Y/A M/M D/J

CTI

Name of payee / Nom du bénéficiaire

NON NEGOTIABLE
MAGNANIMOUS CAPITALS INC \$ 100,000.00



/100 Canadian Dollars Canadiens

for Bank of Montreal/pour la Banque de Montréal

Name of remitter / Nom de l'expéditeur

Signing Officer / Signataire

Address of remitter / Adresse de l'expéditeur

Signing Officer / Signataire

3 - Purchaser's Receipt / Reçu de l'acheteur

0 208 74603

This is Exhibit "5" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



CIBC Account Statement

MR SANTOKH MAHAL

For Oct 1 to Oct 31, 2017

Account number
70-39034

Branch transit number
05432

The names shown are based on our current records, as of January 7, 2022. This statement does not reflect any changes in account holders and account holder names that may have occurred prior to this date.

Account summary

Opening balance on Oct 1, 2017		
Withdrawals	-	
Deposits	+	
Closing balance on Oct 31, 2017	=	

Contact information

☎ 1 800 465 CIBC (2422)
Contact us by phone for questions on this update, change of personal information, and general inquiries, 24 hours a day, 7 days a week.

TTY hearing impaired
1 800 465 7401

Outside Canada and the U.S.
1 902 420 CIBC (2422)

🌐 www.cibc.com

Transaction details

Date	Description	Withdrawals (\$)	Deposits (\$)	Balance (\$)
Oct 1	Opening balance			
[Redacted Transaction Details]				

(continued on next page)

CIBC Account Statement

Oct 1 to Oct 31, 2017

Account number: 70-39034

Branch transit number: 05432

Transaction details (continued)

Date	Description	Withdrawals (\$)	Deposits (\$)	Balance (\$)
Oct 24	Balance forward			
Oct 25	DEPOSIT		152,000.00	
	WITHDRAWAL	152,000.00		
Closing balance				

Important: This statement will be considered correct if you do not report errors, omissions or irregularities in entries and balances to CIBC in writing within the period applicable to your regular account recordkeeping option, as follows:

- Bankbook or paperless: 60 days from the date the entry was, or should have been, posted; or
- Statement: 30 days from last date of the statement period covered by a previously issued regular statement where such period included the date the entry was, or should have been, posted.

This rule does not apply to improper credits to your account. Your rights under your Personal Account Agreement to verify and notify CIBC of account errors, omissions or irregularities do not apply to this statement which is for information or replacement purposes only.

***Foreign Currency Conversion Fee:**

If you withdraw foreign currency from a bank machine located outside Canada, you are charged the same conversion rate CIBC is required to pay plus an administration fee, which is disclosed in the CIBC *Personal Account Service Fees* brochure, a copy of which is available at any CIBC branch in Canada (this is in addition to any transaction fee applicable to the withdrawal and the network fee).

TM Trademark of CIBC

® Registered trademark of CIBC

® Interac is a registered trademark of Interac Inc./CIBC Licensee

Transit
05432

Branch / Centre bancaire
BRITANNIA & LATIMER HEARTLAND B CTR
MISSISSAUGA, ONT

Account No. / N° de compte
05432/7039034

2207400 172 BIL-2007/02

113

FOR THE PURCHASE OF A BANK DRAFT

152,000.00

PAID TO -

2017-10-25

DATE Y/A M/M D/J

MAHAL VENTURE CAPITAL INC.*****

*****152,000.00

Total \$

Debit Advice / Avis de débit

- MR SANTOKH MAHAL
- 800 SWINBOURNE DR
- MISSISSAUGA
- L5V 1J6

ON



[Handwritten Signature]
 Pro Manager / Pour le directeur
 Le logo CIBC est une marque déposée de la Banque CIBC.

This is Exhibit "6" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)


TD Canada Trust

 CREDIT VALLEY TOWN PLAZA
 6051 CREDITVIEW RD
 MISSISSAUGA, ON L5V 2A8

 If you have any questions
 about this statement, call:

Tel: 1-866-222-3456

TTY: 1-800-361-1180

 MR SANTOKH MAHAL
 800 SWINBOURNE DR
 MISSISSAUGA ON L5V 1J6

Statement of Account		Account Type	Statement From To
Branch No.	Account No.	INCLUSIVE SR	SEP 29/17 - OCT 30/17
1870	1870-6466982		Page 1 of 1

Description	Withdrawals	Deposits	Date	Balance
STARTING BALANCE			SEP29	17,011.10
[REDACTED]				
GC 1185-TRANSFER	20,900.00		OCT26	
[REDACTED]				

Account/Transaction Type	Fees	Rebate Balance	Waived Fees	Paid Fees
INCLUSIVE SR TRANSACTIONS	[REDACTED]			
			Fees Paid:	[REDACTED]

ACCOUNT ISSUED BY: THE TORONTO-DOMINION BANK

For your protection, avoid choosing a PIN that could be easily guessed. Memorize your PIN. Never record your PIN near your Access Card.

Overdraft Protection Service			
Overdraft Limit	Overdraft Interest Rate (%)	Interest Period	Interest Amount (\$)
Your Overdraft Limit is \$2,000.00	21.00%	Oct 01 - Oct 31	\$0.00
Minimum Payment: You will have 89 days from the date of your first Overdraft Transaction (including the first day) to pay the outstanding balance up to your Overdraft Limit in full.			
Examples of Interest Charges for a 30 Day Billing Cycle			
Outstanding Overdraft Balance during Billing Cycle	\$200.00	\$500.00	\$1,000.00
Interest charges at an Overdraft Interest Rate of 21.00%	\$3.45	\$8.63	\$17.26

 Your account can do more. Visit www.td.com/digitalhowto or call EasyLine at 1-866-222-3456 to find out how. Or ask your branch for details.

This is Exhibit "7" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

TD Canada Trust

Tel: 1-866-222-3456
TTY: 1-800-361-1180

TDCDA11100_4858217_006 E D 01870 18410

MAHAL VENTURE CAPITAL INC.
6845 SECOND LINE W
MISSISSAUGA ON L5W 1M8



Statement of Account	
Branch No.	Account No.
1870	1870-5240286

Account Type
BUSINESS CHEQUING ACCOUNT - CAD BASIC

Statement From - To
SEP 29/17 - OCT 31/17
Page 1 of 1



DESCRIPTION	CHEQUE/DEBIT	DEPOSIT/CREDIT	DATE	BALANCE
BALANCE FORWARD			SEP29	271.49
EMAIL TFR C0BR8aXd	190.00		OCT05	
SEND E-TFR FEE	1.50		OCT05	79.99
CHQ#00018-0144021203	330,900.00		OCT12	
RTN#00018 NSF		330,900.00	OCT12	79.99
NSF RETURN FEE	48.00		OCT13	31.99
DEPOSIT		158,251.39	OCT25	
DEPOSIT		152,000.00	OCT25	
CERTIFIED CHQ #00020	310,000.00		OCT25	
CASH WITHDRAWAL	10.00		OCT25	273.38
TRANSFER		20,900.00	OCT26	
CERTIFIED CHQ #00021	20,900.00		OCT26	
CASH WITHDRAWAL	10.00		OCT26	263.38
MONTHLY PLAN FEE	5.00		OCT31	
SERVICE CHARGE	3.75		OCT31	
PAPER STMT FEE	2.00		OCT31	252.63
0 CHQS ENCLOSED NEXT STATEMENT DATE IS NOV 30/17				
MONTHLY AVER. CR. BAL.		\$127.50		
MONTHLY MIN. BAL.		\$31.99		
DEP CONTENT- CASH 0	ITEMS 2	UNC BATCH 0		
			No.	Amount
			Credits 4	662,051.39
			Debits 11	662,070.25

-
-
-

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.

Accounts issued by: THE TORONTO-DOMINION BANK

This is Exhibit "8" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



DELZOTTO, ZORZI LLP
BARRISTERS & SOLICITORS

ELVIO DELZOTTO, Q.C. HARRY HERSKOWITZ
EDWARD P. MICHELI MARY C. CRITELLI STEVEN B. WEISS
LORI R. TANEL MICHAELE DELZOTTO RICHARD P. HOFFMAN
ROBERT W. CALDERWOOD ALEXANDER A. FOUNDOS
SABRINA ADAMSKI ELISE MICHELI AMY J. CHAPLICK

LETTER CONFIRMING DEPOSITS HELD IN TRUST

October 26, 2017

DELIVERED BY PREPAID MAIL

Mahal Venture Capital Inc.
6845 Second Line West,
Mississauga, ON
L5W 1M8

To Whom It May Concern:

RE: Aquabella Bayside Toronto Inc. (the "**Vendor**") or the "**Declarant**") sale to Mahal Venture Capital Inc. (the "**Purchaser**") of dwelling unit 1, level 12, being suite # GPH1 (the "**Dwelling Unit**") parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA hobby/storage unit TBA, level TBA, in a proposed condominium being developed by the Vendor (the "**Condominium**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Real Property**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project (with all such units so acquired, and their appurtenant common interests, being hereinafter collectively referred to as the "**Purchased Units**") - Our General File Number 1639523

Please find enclosed herewith evidence of compliance with subsections 81(1) and (5) of The Condominium Act, 1998, with respect to the deposit monies paid by or on behalf of the Purchaser (as well as all monies paid on account of the purchase price in respect of the interim-occupancy closing, if applicable), to date, in connection with the above-captioned transaction, and which monies are being held in trust by the law firm of DelZotto, Zorzi LLP. Such evidence comprises Form 4, prescribed by section 39 of Ontario Regulation 49/01, duly completed by our law firm.

Should you have any questions regarding the contents of the enclosed Form 4, please direct same to your sales representative at (416) 514-2710, inasmuch as we are not at liberty to further communicate with you directly.

Yours very truly,

DELZOTTO, ZORZI LLP

Per:

Stella Vilardo

C:\WP\Docs\Deposits\Deposit Covering Letter.frm
DTA File No. 1639711

Form 4
The Condominium Act, 1998

EVIDENCE OF COMPLIANCE
[subsection 81 (6) of The Condominium Act, 1998]

To: Mahal Venture Capital Inc. (the "**Purchaser**") of 6845 Second Line West, , Mississauga, ON L5W 1M8

The law firm of DelZotto, Zorzi LLP hereby certifies that:

1. We are the prescribed trustee (or escrow agent) holding purchasers' deposit monies in connection with the condominium being developed by Aquabella Bayside Toronto Inc. (hereinafter referred to as the "**Declarant**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Condominium**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project.
2. On the **26th day of October, 2017, we received the amount of \$310,000.00 and the amount of \$20,900.00** (hereinafter referred to as the "**Money**") that was paid by or on behalf of the Purchaser under subsection 81 (1) of *The Condominium Act, 1998* in respect of the purchase (or a right to the purchase) of a proposed unit in the Condominium described as: Dwelling Unit 1 on Level 12 (being suite # GPH1), together with all parking, locker and/or other ancillary units (if any) being acquired by the Purchaser from the Declarant in the Condominium.
3. We are holding the Money in trust in a separate account in Ontario designated as a trust account and identified as:
 - a) Trust Account No. 86-08415 with Canadian Imperial Bank of Commerce, located at 3940 Keele St, North York, ON, M3J 1P2 (the "**Bank**"), phone number 905-572-5953.
 - b) As at the date hereof, the total amount of monies we have received from (or on behalf of) the Purchaser in connection with the purchase of the aforementioned unit in the Condominium [including all monies received for extras and upgrades, as well as all deposit monies received on account of the purchase price (including any monies received in connection with the interim-occupancy closing, if applicable)] amounts to \$330,900.00. **This amount is predicated on the deposit cheque(s) set out in paragraph 2 above, having cleared the Bank and being duly honoured.**
4. You will receive notice if there is any change in the prescribed trustee (or escrow agent) holding the Money in trust, before our law firm no longer has any obligations under *The Condominium Act, 1998* (or the regulations made thereunder) relating to the Money, or to any security of a prescribed class that the Declarant may provide for the Money.

Dated: October 26, 2017.

DELZOTTO, ZORZI LLP

Per:



Stella Vilardo

4810 Dufferin Street, Suite D,
Toronto, Ontario, M3H 5S8
Telephone #416-665-5555
Fax #416-665-9653

This is Exhibit "9" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



TD Canada Trust

CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

If you have any questions
about this statement, call:
Tel: 1-866-222-3456
TTY: 1-800-361-1180

MR SANTOKH MAHAL
800 SWINBOURNE DR
MISSISSAUGA ON L5V 1J6

Statement of Account		Account Type	Statement From To
Branch No.	Account No.	INCLUSIVE SR	NOV 30/17 - DEC 31/17
1870	1870-6466982		Page 1 of 1

Description	Withdrawals	Deposits	Date	Balance
[REDACTED]				
CAD DRAFT	330,900.00		DEC18	
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				
[REDACTED]				

Account/Transaction Type	Fees	Rebate Balance	Waived Fees	Paid Fees
INCLUSIVE SR TRANSACTIONS	[REDACTED]			

YOUR OVERDRAFT LIMIT IS \$2,000.00
ACCOUNT ISSUED BY: THE TORONTO-DOMINION BANK
For your protection, avoid choosing a PIN that could be easily guessed. Memorize your PIN. Never record your PIN near your Access Card.

Your account can do more. Visit www.td.com/digitalhowto or call EasyLine at 1-866-222-3456 to find out how. Or ask your branch for details.

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.



TD Canada Trust

CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

If you have any questions
about this statement, call:
Tel: 1-866-222-3456
TTY: 1-800-361-1180

MR JESSE MAHAL
6845 SECOND LINE WEST
MISSISSAUGA ON L5W 1M8

Statement of Account		Account Type	Statement From To
Branch No.	Account No.	ALL-INCLUSIVE	NOV 30/17 - DEC 31/17
1870	1870-6280528		Page 1 of 1

Description	Withdrawals	Deposits	Date	Balance
RJ111 TRF-FR 6466982		330,900.00	DEC18	
WI100 TRF-TO 5240286	330,900.00		DEC18	

Account/Transaction Type	Fees	Rebate Balance	Waived Fees	Paid Fees

ACCOUNT ISSUED BY: THE TORONTO-DOMINION BANK
For your protection, avoid choosing a PIN that could be easily guessed. Memorize your PIN. Never record your PIN near your Access Card.

Your account can do more. Visit www.td.com/digitalhowto or call EasyLine at 1-866-222-3456 to find out how. Or ask your branch for details.

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.



CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

TD Canada Trust

Tel: 1-866-222-3456
TTY: 1-800-361-1180

TDCDA11100_6195807_006 E D 01870 19364

MAHAL VENTURE CAPITAL INC.
6845 SECOND LINE W
MISSISSAUGA ON L5W 1M8



Statement of Account	
Branch No.	Account No.
1870	1870-5240286

Account Type
BUSINESS CHEQUING ACCOUNT - CAD BASIC

Statement From - To
NOV 30/17 - DEC 29/17
Page 1 of 1

DESCRIPTION	CHEQUE/DEBIT	DEPOSIT/CREDIT	DATE	BALANCE
BALANCE FORWARD			NOV30	247.63
CHQ#00012-2144812318	330,900.00		DEC06	
RTN#00012 NSF		330,900.00	DEC06	247.63
NSF RETURN FEE	48.00		DEC07	199.63
JW504 TFR-FR 6280528		550,000.00	DEC15	
JL314 TFR-TO 6280528	550,000.00		DEC15	199.63
UJ170 TFR-FR 6280528		330,900.00	DEC18	
CERTIFIED CHQ #00023	330,900.00		DEC18	
GC 0231-CASH WITHDRA	10.00		DEC18	189.63
MONTHLY PLAN FEE	5.00		DEC29	
PAPER STMT FEE	2.00		DEC29	182.63
0 CHQS ENCLOSED NEXT STATEMENT DATE IS JAN 31/18				
MONTHLY AVER. CR. BAL.		\$203.72		
MONTHLY MIN. BAL.		\$182.63		
DEP CONTENT- CASH 0	ITEMS 0	UNC BATCH 0		
			Credits	No. 3
				Amount 1211,800.00
			Debits	7
				1211,865.00

-
-
-

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.

Accounts issued by: THE TORONTO-DOMINION BANK

JTA21187240055267-19364-0001-0001-00-

This is Exhibit "10" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



DELZOTTO, ZORZI LLP
BARRISTERS & SOLICITORS

ELVIO DELZOTTO, Q.C. HARRY HERSKOWITZ
EDWARD P. MICHELI MARY G. CRITELLI STEVEN B. WEISS
LORI R. TANEL MICHAELE DELZOTTO RICHARD P. HOFFMAN
ROBERT W. CALDERWOOD ALEXANDER A. FOUNDOS
SABRINA ADAMSKI ELISE MICHELI AMY J. CHAPLICK

LETTER CONFIRMING DEPOSITS HELD IN TRUST

December 20, 2017

DELIVERED BY PREPAID MAIL

Mahal Venture Capital Inc.
6845 Second Line West,
Mississauga, ON
L5W 1M8

To Whom It May Concern:

RE: Aquabella Bayside Toronto Inc. (the "**Vendor**" or the "**Declarant**") sale to Mahal Venture Capital Inc. (the "**Purchaser**") of dwelling unit 1, level 12, being suite # GPH1 (the "**Dwelling Unit**") parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA hobby/storage unit TBA, level TBA, in a proposed condominium being developed by the Vendor (the "**Condominium**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Real Property**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project (with all such units so acquired, and their appurtenant common interests, being hereinafter collectively referred to as the "**Purchased Units**") - Our General File Number 1639523

Please find enclosed herewith evidence of compliance with subsections 81(1) and (5) of The Condominium Act, 1998, with respect to the deposit monies paid by or on behalf of the Purchaser (as well as all monies paid on account of the purchase price in respect of the interim-occupancy closing, if applicable), to date, in connection with the above-captioned transaction, and which monies are being held in trust by the law firm of DelZotto, Zorzi LLP. Such evidence comprises Form 4, prescribed by section 39 of Ontario Regulation 49/01, duly completed by our law firm.

Should you have any questions regarding the contents of the enclosed Form 4, please direct same to your sales representative at (416) 514-2710, inasmuch as we are not at liberty to further communicate with you directly.

Yours very truly,

DELZOTTO, ZORZI LLP

Per:

Stella Vilardo

C:\WP\Docs\Deposits\Deposit Covering Letter.fm
DTA File No. 1639711

Form 4
The Condominium Act, 1998

EVIDENCE OF COMPLIANCE
[subsection 81 (6) of The Condominium Act, 1998]

To: Mahal Venture Capital Inc. (the "**Purchaser**") of 6845 Second Line West, , Mississauga, ON L5W 1M8

The law firm of DelZotto, Zorzi LLP hereby certifies that:

1. We are the prescribed trustee (or escrow agent) holding purchasers' deposit monies in connection with the condominium being developed by Aquabella Bayside Toronto Inc. (hereinafter referred to as the "**Declarant**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Condominium**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project.
2. On the **20th day of December, 2017, we received the amount of \$330,900.00** (hereinafter referred to as the "**Money**") that was paid by or on behalf of the Purchaser under subsection 81 (1) of *The Condominium Act, 1998* in respect of the purchase (or a right to the purchase) of a proposed unit in the Condominium described as: Dwelling Unit 1 on Level 12 (being suite # GPH1), together with all parking, locker and/or other ancillary units (if any) being acquired by the Purchaser from the Declarant in the Condominium.
3. We are holding the Money in trust in a separate account in Ontario designated as a trust account and identified as:
 - a) Trust Account No. 86-08415 with Canadian Imperial Bank of Commerce, located at 3940 Keele St, North York, ON, M3J 1P2 (the "**Bank**"), phone number 905-572-5953.
 - b) As at the date hereof, the total amount of monies we have received from (or on behalf of) the Purchaser in connection with the purchase of the aforementioned unit in the Condominium [including all monies received for extras and upgrades, as well as all deposit monies received on account of the purchase price (including any monies received in connection with the interim-occupancy closing, if applicable)] amounts to \$661,800.00. **This amount is predicated on the deposit cheque(s) set out in paragraph 2 above, having cleared the Bank and being duly honoured.**
4. You will receive notice if there is any change in the prescribed trustee (or escrow agent) holding the Money in trust, before our law firm no longer has any obligations under *The Condominium Act, 1998* (or the regulations made thereunder) relating to the Money, or to any security of a prescribed class that the Declarant may provide for the Money.

Dated: December 20, 2017.

DELZOTTO, ZORZI LLP

Per:



Stella Vilardo

4810 Dufferin Street, Suite D,
Toronto, Ontario, M3H 5S8
Telephone #416-665-5555
Fax #416-665-9653

This is Exhibit "11" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



TD Canada Trust

CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

If you have any questions
about this statement, call:
Tel: 1-866-222-3456
TTY: 1-800-361-1180

MR SANTOKH MAHAL
800 SWINBOURNE DR
MISSISSAUGA ON L5V 1J6

Statement of Account		Account Type	Statement From To
Branch No.	Account No.	INCLUSIVE SR	APR 30/18 - MAY 31/18
1870	1870-6466982		Page 1 of 1

Description	Withdrawals	Deposits	Date	Balance
TRANSFER	104,512.65		MAY24	
CAD DRAFT	94,562.57		MAY25	
CAD DRAFT	20,000.00		MAY30	
CAD DRAFT	120,319.17		MAY30	

Account/Transaction Type	Fees	Rebate Balance	Waived Fees	Paid Fees
INCLUSIVE SR TRANSACTIONS				
				Fees Paid:

ACCOUNT ISSUED BY: THE TORONTO-DOMINION BANK

For your protection, avoid choosing a PIN that could be easily guessed. Memorize your PIN. Never record your PIN near your Access Card.

Overdraft Protection Service			
Overdraft Limit	Overdraft Interest Rate (%)	Interest Period	Interest Amount (\$)
Your Overdraft Limit is \$2,000.00	21.00%	Oct 01 - Oct 31	\$0.00
Minimum Payment: You will have 89 days from the date of your first Overdraft Transaction (including the first day) to pay the outstanding balance up to your Overdraft Limit in full.			
Examples of Interest Charges for a 30 Day Billing Cycle			
Outstanding Overdraft Balance during Billing Cycle	\$200.00	\$500.00	\$1,000.00
Interest charges at an Overdraft Interest Rate of 21.00%	\$3.45	\$8.63	\$17.26

Your account can do more. Visit www.td.com/digitalhowto or call EasyLine at 1-866-222-3456 to find out how. Or ask your branch for details.



TD Canada Trust

CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

If you have any questions
about this statement, call:
Tel: 1-866-222-3456
TTY: 1-800-361-1180

MR JESSE MAHAL
6845 SECOND LINE WEST
MISSISSAUGA ON L5W 1M8

Statement of Account		Account Type	Statement From To
Branch No.	Account No.	ALL-INCLUSIVE	APR 30/18 - MAY 31/18
1870	1870-6280528		Page 1 of 1

Description	Withdrawals	Deposits	Date	Balance
PZ096 TRF-FR 6466982		104,512.65	MAY24	
CAD DRAFT	104,512.65		MAY24	

Account/Transaction Type	Fees	Rebate Balance	Waived Fees	Paid Fees

ACCOUNT ISSUED BY: THE TORONTO-DOMINION BANK
For your protection, avoid choosing a PIN that could be easily guessed. Memorize your PIN. Never record your PIN near your Access Card.

Your account can do more. Visit www.td.com/digitalhowto or call EasyLine at 1-866-222-3456 to find out how. Or ask your branch for details.

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.



CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

131
TD Canada Trust

Tel: 1-866-222-3456
TTY: 1-800-361-1180

TDCDA11100_2577574_006 E D 01870 13196

MAHAL VENTURE CAPITAL INC.
6845 SECOND LINE W
MISSISSAUGA ON L5W 1M8



Statement of Account	
Branch No.	Account No.
1870	1870-5240286

Account Type
BUSINESS CHEQUING ACCOUNT - CAD BASIC

Statement From - To
APR 30/18 - MAY 31/18
Page 1 of 1

DESCRIPTION	CHEQUE/DEBIT	DEPOSIT/CREDIT	DATE	BALANCE
BALANCE FORWARD			APR30	126.43
NSF RETURN FEE	48.00		MAY01	78.43
GC 1275-DEPOSIT		650,000.00	MAY08	
GC 1275-TRANSFER	650,000.00		MAY08	
GC 1597-DEPOSIT		104,512.65	MAY24	78.43
GC 1185-DEPOSIT		25,000.00	MAY25	104,591.08
GC 1185-DEPOSIT		94,562.57	MAY25	
CAD DRAFT 85270913	3,408.85		MAY25	
J1590 TFR-TO 6280528	4,000.00		MAY25	
JJ150 TFR-TO 6280528	16,000.00		MAY25	
RJ514 TFR-TO 6280528	8,400.00		MAY25	200,744.80
DEPOSIT		20,000.00	MAY28	192,344.80
DEPOSIT		20,000.00	MAY30	
DEPOSIT		120,319.17	MAY30	
HZ515 TFR-TO 6280528	16,000.00		MAY30	336,663.97
FORD CREDIT CA APY	1,488.24		MAY31	
MONTHLY PLAN FEE	5.00		MAY31	
SERVICE CHARGE	11.25		MAY31	
ITEMS DEP FEE	0.44		MAY31	
PAPER STMT FEE	3.00		MAY31	335,156.04
0 CHQS ENCLOSED NEXT STATEMENT DATE IS JUN 29/18				
MONTHLY AVER. CR. BAL. \$56,939.96				No.
MONTHLY MIN. BAL. \$78.43				Credits 7
DEP CONTENT- CASH 0 ITEMS 7 UNC BATCH 0				Debits 12
				Amount
				1034,394.39
				699,364.78

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.

Accounts issued by: THE TORONTO-DOMINION BANK



CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

TD Canada Trust

Tel: 1-866-222-3456
TTY: 1-800-361-1180

TDCDA11100_3274547_006 E D 01870 12947

MAHAL VENTURE CAPITAL INC.
6845 SECOND LINE W
MISSISSAUGA ON L5W 1M8



Statement of Account	
Branch No.	Account No.
1870	1870-5240286

Account Type
BUSINESS CHEQUING ACCOUNT - CAD BASIC

Statement From - To
MAY 31/18 - JUN 29/18
Page 1 of 2

DESCRIPTION	CHEQUE/DEBIT	DEPOSIT/CREDIT	DATE	BALANCE
BALANCE FORWARD			MAY31	335,156.04
CERTIFIED CHQ #00028	330,900.00		JUN01	
GC 1597-CASH WITHDRA	10.00		JUN01	4,246.04
CHQ#00029-4140547926	45.00		JUN06	4,201.04
GC 1597-DEPOSIT		15,000.00	JUN18	
GC 1597-CASH WITHDRA	5,000.00		JUN18	
GC 1597-CASH WITHDRA	799.15		JUN18	13,401.89
AIG Canada INS	5,182.29		JUN21	8,219.60
RQ021 TFR-TO 6280528	6,000.00		JUN25	2,219.60
MONTHLY PLAN FEE	5.00		JUN29	
SERVICE CHARGE	3.75		JUN29	
PAPER STMT FEE	3.00		JUN29	2,207.85

1 CHQ ENCLOSED NEXT STATEMENT DATE IS JUL 31/18			
MONTHLY AVER. CR. BAL.	\$5,267.36	No.	Amount
MONTHLY MIN. BAL.	\$2,207.85	Credits	1 15,000.00
DEP CONTENT- CASH 0	ITEMS 1 UNC BATCH 0	Debits	10 347,948.19

-	
-	
-	

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.

Accounts issued by: THE TORONTO-DOMINION BANK

JCA285123E-C025893-12947-0001-0001-00-

This is Exhibit "12" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



DELZOTTO, ZORZI LLP
BARRISTERS & SOLICITORS

ELVIO DELZOTTO, Q.C. HARRY HERSKOWITZ
EDWARD P. MICHELI MARY G. CRITELLI STEVEN B. WEISS LORIE TANEL
MICHAELE DELZOTTO RICHARD P. HOFFMAN ROBERT W. CALDERWOOD
ALEXANDER A. FOUNDOS GIULIO LAVECCHIA SABRINA ADAMSKI
ELISE MICHELI AMY J. CHAPLICK

LETTER CONFIRMING DEPOSITS HELD IN TRUST

June 5, 2018

DELIVERED BY PREPAID MAIL

Mahal Venture Capital Inc.
6845 Second Line West
Mississauga, ON
L5W 1M8

To Whom It May Concern:

RE: Aquabella Bayside Toronto Inc. (the "**Vendor**" or the "**Declarant**") sale to Mahal Venture Capital Inc. (the "**Purchaser**") of dwelling unit 1, level 12, being suite # GPH1 (the "**Dwelling Unit**") parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA hobby/storage unit TBA, level TBA, in a proposed condominium being developed by the Vendor (the "**Condominium**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Real Property**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project (with all such units so acquired, and their appurtenant common interests, being hereinafter collectively referred to as the "**Purchased Units**")
Our General File Number 1639523

Please find enclosed herewith evidence of compliance with subsections 81(1) and (5) of The Condominium Act, 1998, with respect to the deposit monies paid by or on behalf of the Purchaser (as well as all monies paid on account of the purchase price in respect of the interim-occupancy closing, if applicable), to date, in connection with the above-captioned transaction, and which monies are being held in trust by the law firm of DelZotto, Zorzi LLP. Such evidence comprises Form 4, prescribed by section 39 of Ontario Regulation 49/01, duly completed by our law firm.

Should you have any questions regarding the contents of the enclosed Form 4, please direct same to your sales representative at (416) 514-2710, inasmuch as we are not at liberty to further communicate with you directly.

Yours very truly,

DELZOTTO, ZORZI LLP

Per:

Stella Vilardo

C:\WP\Docs\Deposits\Deposit Covering Letter.fm
DTA File No. 1639711

Form 4
The Condominium Act, 1998

EVIDENCE OF COMPLIANCE
[subsection 81 (6) of The Condominium Act, 1998]

To: Mahal Venture Capital Inc.
6845 Second Line West
Mississauga, ON
L5W 1M8

(the "**Purchaser**")

The law firm of DelZotto, Zorzi LLP hereby certifies that:

1. We are the prescribed trustee (or escrow agent) holding purchasers' deposit monies in connection with the condominium being developed by Aquabella Bayside Toronto Inc. (hereinafter referred to as the "**Declarant**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Condominium**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project.
2. On the **5th day of June, 2018, we received the amount of \$330,900.00** (hereinafter referred to as the "**Money**") that was paid by or on behalf of the Purchaser under subsection 81 (1) of *The Condominium Act, 1998* in respect of the purchase (or a right to the purchase) of a proposed unit in the Condominium described as: Dwelling Unit 1 on Level 12 (being suite # GPH1), together with all parking, locker and/or other ancillary units (if any) being acquired by the Purchaser from the Declarant in the Condominium.
3. We are holding the Money in trust in a separate account in Ontario designated as a trust account and identified as:
 - a) Trust Account No. 86-08415 with Canadian Imperial Bank of Commerce, located at 3940 Keele St, North York, ON, M3J 1P2 (the "**Bank**"), phone number 905-572-5953.
 - b) As at the date hereof, the total amount of monies we have received from (or on behalf of) the Purchaser in connection with the purchase of the aforementioned unit in the Condominium [including all monies received for extras and upgrades, as well as all deposit monies received on account of the purchase price (including any monies received in connection with the interim-occupancy closing, if applicable)] amounts to \$992,700.00. **This amount is predicated on the deposit cheque(s) set out in paragraph 2 above, having cleared the Bank and being duly honoured.**
4. You will receive notice if there is any change in the prescribed trustee (or escrow agent) holding the Money in trust, before our law firm no longer has any obligations under *The Condominium Act, 1998* (or the regulations made thereunder) relating to the Money, or to any security of a prescribed class that the Declarant may provide for the Money.

Dated: June 05, 2018.

C:\WP\Docs\Deposits\Form 4 .wpd

DELZOTTO, ZORZI LLP

Per: 
Stella Vilardo

4810 Dufferin Street, Suite D,
Toronto, Ontario, M3H 5S8
Telephone #416-665-5555
Fax #416-665-9653

This is Exhibit "13" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



TD Canada Trust

CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

If you have any questions
about this statement, call:
Tel: 1-866-222-3456
TTY: 1-800-361-1180

MR SANTOKH MAHAL
800 SWINBOURNE DR
MISSISSAUGA ON L5V 1J6

Statement of Account		Account Type	Statement From To
Branch No.	Account No.	INCLUSIVE SR	SEP 28/18 - OCT 31/18
1870	1870-6466982		Page 1 of 1

Description	Withdrawals	Deposits	Date	Balance
CC-CHQ#00030-142850291	331,000.00		OCT02	

Account/Transaction Type	Fees	Rebate Balance	Waived Fees	Paid Fees
INCLUSIVE SR TRANSACTIONS				

YOUR OVERDRAFT LIMIT IS \$2,000.00
ACCOUNT ISSUED BY: THE TORONTO-DOMINION BANK
For your protection, avoid choosing a PIN that could be easily guessed. Memorize your PIN. Never record your PIN near your Access Card.

Your account can do more. Visit www.td.com/digitalhowto or call EasyLine at 1-866-222-3456 to find out how. Or ask your branch for details.

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.



CREDIT VALLEY TOWN PLAZA
6051 CREDITVIEW RD
MISSISSAUGA, ON L5V 2A8

TD Canada Trust

Tel: 1-866-222-3456
TTY: 1-800-361-1180

TDCDA11100_6053907_006 E D 01870 11659

MAHAL VENTURE CAPITAL INC.
6845 SECOND LINE W
MISSISSAUGA ON L5W 1M8



Statement of Account	
Branch No.	Account No.
1870	1870-5240286

Account Type
BUSINESS CHEQUING ACCOUNT - CAD BASIC

Statement From - To
SEP 28/18 - OCT 31/18
Page 1 of 2

DESCRIPTION	CHEQUE/DEBIT	DEPOSIT/CREDIT	DATE	BALANCE
BALANCE FORWARD			SEP28	57.210D
FORD CREDIT CA APY	1,488.24		OCT01	1,545.450D
GC 1597-DEPOSIT		331,000.00	OCT02	
GC 1597-DEPOSIT		1,300.00	OCT02	
NSF PAID FEE	5.00		OCT02	
WT122 TFR-FR 7306621		200.00	OCT02	
CHQ#00030-0142850291	330,900.00		OCT02	49.55
CHQ#00031-0140034842	45.00		OCT11	4.55
GC 1275-DEPOSIT		9,900.00	OCT24	
CAD DRAFT 84589291	7,769.49		OCT24	2,135.06
FORD CREDIT CA APY	1,488.24		OCT31	
MONTHLY PLAN FEE	5.00		OCT31	
SERVICE CHARGE	5.00		OCT31	
CASH DEP FEE	28.00		OCT31	
PAPER STMT FEE	3.00		OCT31	
OVERDRAFT INTEREST	0.89		OCT31	604.93

2 CHQS ENCLOSED NEXT STATEMENT DATE IS NOV 30/18			
MONTHLY AVER. CR. BAL.		\$517.91	
MONTHLY MIN. BAL.		\$1,545.450D	
DEP CONTENT- CASH 11,200	ITEMS 1	UNC BATCH 0	
			Credits 4 342,400.00
			Debits 11 341,737.86

-	
-	
-	

Please ensure that you report in writing any errors or irregularities found within this statement within 30 days of the statement date. If you do not, the statement of account shall be conclusively deemed correct except for any amount credited to the account in error.

Accounts issued by: THE TORONTO-DOMINION BANK

JCA3364669-0023317-11659-0001-0001-00-

This is Exhibit "14" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



DELZOTTO, ZORZI LLP
BARRISTERS & SOLICITORS

ELVIO DELZOTTO Q.C. HARRY HERSKOWITZ
EDWARD P. MICHELI STEVEN B. WEISS LORI R. TANEL
MICHAELE DELZOTTO RICHARD P. HOFFMAN ROBERT W. CALDERWOOD
ALEXANDER A. FOUNDOS GIULIO LAVECCHIA SABRINA ADAMSKI
ELISE MICHELI AMY J. CHAPLICK LYDIA SYME

LETTER CONFIRMING DEPOSITS HELD IN TRUST

October 2, 2018

DELIVERED BY PREPAID MAIL

Mahal Venture Capital Inc.
6845 Second Line West
Mississauga, ON
L5W 1M8

To Whom It May Concern:

RE: Aquabella Bayside Toronto Inc. (the "**Vendor**" or the "**Declarant**") sale to Mahal Venture Capital Inc. (the "**Purchaser**") of dwelling unit 1, level 12, being suite # GPH1 (the "**Dwelling Unit**") parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA parking unit TBA, level TBA hobby/storage unit TBA, level TBA, in a proposed condominium being developed by the Vendor (the "**Condominium**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Real Property**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project (with all such units so acquired, and their appurtenant common interests, being hereinafter collectively referred to as the "**Purchased Units**") Our General File Number 1639523

Please find enclosed herewith evidence of compliance with subsections 81(1) and (5) of The Condominium Act, 1998, with respect to the deposit monies paid by or on behalf of the Purchaser (as well as all monies paid on account of the purchase price in respect of the interim-occupancy closing, if applicable), to date, in connection with the above-captioned transaction, and which monies are being held in trust by the law firm of DelZotto, Zorzi LLP. Such evidence comprises Form 4, prescribed by section 39 of Ontario Regulation 49/01, duly completed by our law firm.

Should you have any questions regarding the contents of the enclosed Form 4, please direct same to your sales representative at (416) 514-2710, inasmuch as we are not at liberty to further communicate with you directly.

Yours very truly,

DELZOTTO, ZORZI LLP

Per:

Stella Vilardo

C:\WP\Docs\Deposits\Deposit Covering Letter.frm
DTA File No. 1639711

Form 4
The Condominium Act, 1998

EVIDENCE OF COMPLIANCE
[subsection 81 (6) of The Condominium Act, 1998]

To: Mahal Venture Capital Inc.
6845 Second Line West
Mississauga, ON
L5W 1M8

(the "Purchaser")

The law firm of DelZotto, Zorzi LLP hereby certifies that:

1. We are the prescribed trustee (or escrow agent) holding purchasers' deposit monies in connection with the condominium being developed by Aquabella Bayside Toronto Inc. (hereinafter referred to as the "**Declarant**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Condominium**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project.
2. On the **2nd day of October, 2018, we received the amount of \$330,900.00** (hereinafter referred to as the "**Money**") that was paid by or on behalf of the Purchaser under subsection 81 (1) of *The Condominium Act, 1998* in respect of the purchase (or a right to the purchase) of a proposed unit in the Condominium described as: Dwelling Unit 1 on Level 12 (being suite # GPH1), together with all parking, locker and/or other ancillary units (if any) being acquired by the Purchaser from the Declarant in the Condominium.
3. We are holding the Money in trust in a separate account in Ontario designated as a trust account and identified as:
 - a) Trust Account No. 86-08415 with Canadian Imperial Bank of Commerce, located at 3940 Keele St, North York, ON, M3J 1P2 (the "**Bank**"), phone number 905-572-5953.
 - b) As at the date hereof, the total amount of monies we have received from (or on behalf of) the Purchaser in connection with the purchase of the aforementioned unit in the Condominium [including all monies received for extras and upgrades, as well as all deposit monies received on account of the purchase price (including any monies received in connection with the interim-occupancy closing, if applicable)] amounts to \$1,323,600.00. **This amount is predicated on the deposit cheque(s) set out in paragraph 2 above, having cleared the Bank and being duly honoured.**
4. You will receive notice if there is any change in the prescribed trustee (or escrow agent) holding the Money in trust, before our law firm no longer has any obligations under *The Condominium Act, 1998* (or the regulations made thereunder) relating to the Money, or to any security of a prescribed class that the Declarant may provide for the Money.

Dated: October 02, 2018.

C:\WP\Docs\Deposits\Form 4.wpd

DELZOTTO, ZORZI LLP

Per: 

Stella Vilaro

4810 Dufferin Street, Suite D,
Toronto, Ontario, M3H 5S8
Telephone #416-665-5555
Fax #416-665-9653

This is Exhibit "15" referred to in the Affidavit of Santokh Mahal sworn January 19, 2022



Commissioner for Taking Affidavits (or as may be)



DELZOTTO, ZORZI LLP
BARRISTERS & SOLICITORS

ELVIO DELZOTTO, Q.C. HARRY HERSKOWITZ
EDWARD P. MICHELI STEVEN B. WEISS LORI R. TANEL MICHAELE DELZOTTO
RICHARD P. HOFFMAN ROBERT W. CALDERWOOD ALEXANDER A. FOUNDOS
GIULIO LAVECCHIA SABRINA ADAMSKI AMY CRYSTAL ARIELLA SONE

DIRECT CONTACT: Heather Daley at (416) 665-5194
E-MAIL ADDRESS: hdaley@dzlaw.com

ORDINARY MAIL, REGISTERED MAIL and
EMAIL jesse.mahal@gmail.com

November 17, 2021

Mahal Venture Capital Inc.
6845 Second Line West,
Mississauga, ON
L5W 1M8

Notice of Delayed Occupancy Date

Suite # GPH1, 118 Merchants' Wharf

RE: Aquabella Bayside Toronto Inc. (the "**Vendor**" or the "**Declarant**") sale to Mahal Venture Capital Inc. (the "**Purchaser**") of dwelling unit 1, level 12, being suite # GPH1 (the "**Dwelling Unit**"), parking unit TBA, level TBA, parking unit TBA, level TBA, parking unit TBA, level TBA, parking unit TBA, level TBA, hobby/storage room unit TBA, level TBA, in a proposed condominium being developed by the Vendor (the "**Condominium**") on the lands and premises municipally located at 118 Merchants' Wharf, Toronto, Ontario (hereinafter referred to as the "**Real Property**") and marketed as the "**Aquabella at Bayside Toronto**" Condominium Project (with all such units so acquired, and their appurtenant common interests, being hereinafter collectively referred to as the "**Purchased Units**") Our General File Number 1639523

Please be advised that we are the solicitors for the Vendor. We are sending this letter to you directly as the lawyer who you advised was representing you, Mr. Rodney Godard, has advised us that he is, in fact, not representing you in connection with the above-noted transaction and you have not responded to our client's recent request to provide updated lawyer information. We reiterate our client's request to immediately provide us with the name of the lawyer who will be representing you on the closing of this transaction.

Pursuant to section 3 of the Taron Addendum attached as a schedule to the agreement of purchase and sale between the Purchaser and the Vendor (the "**Purchase Agreement**"), this letter is to confirm that the interim occupancy or escrow closing of the above-captioned transaction is hereby extended from December 10, 2021 (the "Original Interim Closing Date" or the "Firm Occupancy Date") to March 29, 2022 (the "Extended Interim Closing Date" or the "Delayed Occupancy Date"), with the occupancy fees and all other adjustments relative to the escrow closing of the above-captioned transaction to reflect (and commence from) the Extended Interim Closing Date.

Please be advised that you will be credited in the statement of adjustments (at final closing) with an amount equivalent to the aggregate of all delayed occupancy compensation that you are entitled to receive pursuant to (and in accordance with) the provisions of section 7 of the Taron Addendum, (namely at the rate of \$150 per day, for each day of the extension, up to a maximum of \$7,500.00 in the aggregate). There will be no need to change the Outside Occupancy Date set out in the Statement of Critical Dates set forth in the Taron Addendum.

All other terms and provisions of the Purchase Agreement, as amended, shall remain the same, and time shall continue to be of the essence, in all respects.

Yours very truly,

DELZOTTO, ZORZI LLP

Per:
Harry Herskowitz
HH:hd

C:\WPDocs\Escrow\Unilateral Ext Ltr.wpd

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF SANTOKH MAHAL

DICKINSON WRIGHT LLP

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

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DAVID Z. SEIFER (77474F)

dseifer@dickinson-wright.com
Tel: 416-646-6867

Lawyers for Santokh Mahal

IN THE MATTER OF THE BANKRUPTCY OF MAHAL VENTURE CAPITAL INC., OF THE CITY OF BRANTFORD, IN THE PROVINCE OF ONTARIO

Estate File No. CV-32-2782563

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

DICKINSON WRIGHT LLP

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

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Lawyers for Santokh Mahal