

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

BETWEEN:

**ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR
CAPITAL
CORPORATION**

Applicant

- and -

STATEVIEW HOMES (NAO TOWNS II) INC.

Respondent

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*
ACT R.S.C. 1985 C. B-3, AS AMENDED, AND UNDER SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43**

**MOTION RECORD OF THE RECEIVER,
KSV RESTRUCTURING INC.**

February 8, 2024

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TO: THE SERVICE LIST

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TAB 1

Court File No.: CV-23-00698395-00CL

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

**ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL
CORPORATION**

Plaintiffs

- and -

**STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI, and CARLO
TAURASI**

Defendants

NOTICE OF MOTION

THE RECEIVER AND MANAGER, KSV Restructuring Inc. (the “**Receiver**”), will make a motion before the court on February 15, 2024 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Ave., Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard via remote videoconference.

THE MOTION IS FOR:

1. An approval and vesting order (“**AVO**”) substantially in the form attached as **Tab 3** to this Motion Record, among other things:

- (a) approving the sale transaction (the “**Transaction**”) in respect of the property of Stateview Homes (NAO Towns II) Inc. (the “**Debtor**”), as contemplated by an agreement of purchase and sale between the Receiver and 1000707996 Ontario Inc.

(the “**Purchaser**”), dated November 29, 2023, and amended on January 17, 2024 (the “**APS**”);

- (b) following the Receiver’s delivery of the Receiver’s certificate substantially in the form attached as Schedule “A” to the proposed AVO, transferring and vesting all of the Debtor’s right, title and interest in and to the Purchased Assets (as defined in the APS) in the Purchaser, free and clear of all liens, charges, security interests and encumbrances other than permitted encumbrances.
2. An ancillary relief order substantially in the form attached at **Tab 4** of the Motion Record, among other things:
- (a) approving the Seventh Report of the Receiver dated February 7, 2024, (the “**Seventh Report**”) and the Receiver’s activities described therein;
 - (b) approving the fees and disbursements of the Receiver and its counsel, as detailed in the Seventh Report and the Affidavit of Robert Kofman sworn February 7, 2024 and the Affidavit of Beatrice Loschiavo sworn February 5, 2024 (together, the “**Fee Affidavits**”);
 - (c) authorizing the Receiver to make certain payments and distributions and maintain certain reserves from the proceeds from the Transaction as recommended and described in the Seventh Report;
 - (d) sealing Confidential Appendices 1 and 2 to the Seventh Report until the closing of the sale of the Purchased Assets (as defined in the Seventh Report); and

- (e) authorizing the Receiver to terminate and disclaim any or all agreements of purchase and sale entered into between the Debtor (or any other parties related to the Debtor) and any third party in respect of any residential homes built or to be built on the Nao II Real Property.
3. Such further and other relief as counsel may advise and this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

A. *Background*

4. Pursuant to an order of the Court granted on May 2, 2023 (the “**Receivership Order**”), KSV Restructuring Inc. was appointed Receiver and Manager of the property, assets and undertaking owned by the following entities in the Stateview Group of Companies (the “**Stateview Group**”), including their real property:

- (a) the Debtor, pursuant to an action commenced by Atrium Mortgage Corporation (“**Atrium**”) and Dorr Capital Corporation (“**Dorr**” and together with Atrium, the “**Lenders**”);
- (b) Highview Building Corp Inc., pursuant to an application commenced by Dorr;
- (c) Stateview Homes (BEA Towns) Inc., pursuant to an application commenced by Dorr; and
- (d) Stateview Homes (Nao Towns) Inc., Stateview Homes (Minu Towns) Inc., Stateview Homes (High Crown Estates) Inc., Stateview Homes (On the Mark) Inc.

and TLSFD Taurasi Holdings Corp., pursuant to an application commenced by Kingsett Mortgage Corporation.

5. The Stateview Group is a real estate developer with its head office in Vaughan, Ontario. The Stateview Group had been in business since 2010 and primarily developed low-rise residential projects in Southern Ontario.

6. The Debtor is a single-purpose real estate development company that owns the Nao II Real Property, which is comprised of properties having municipal addresses at 7810, 7822, 7834, 7846, McCowan Road, Markham Ontario (the “**Nao II Real Property**”).

7. As of the date of the Receivership Order, the Debtor was advancing the development of a project that contemplated 84 townhomes. Construction on the Nao Towns II project had not commenced as of the date of the Receivership Order.

8. On June 5, 2023, pursuant to a series of orders (the “**Sale Process Order**”) issued by the Court, the Receiver was authorized to conduct a sales process for the property and assets of the Debtor (the “**Sale Process**”).

B. Sale Process

9. The Receiver carried out the Sale Process in accordance with the Sale Process Order. As further described in the Seventh Report, the Receiver’s activities undertaken in connection with the Sale Process included:

- (a) distributing to potential interested parties an investment summary and a form of non-disclosure agreement (the “**NDA**”);

- (b) providing interested parties with access to a virtual data room (the “**VDR**”), which included diligence information regarding the Nao II Real Property and a form of asset purchase agreement that prospective purchasers were encouraged to use in submitting an offer;
- (c) facilitating due diligence requests submitted by prospective purchasers throughout the Sale Process, including facilitating site tours; and
- (d) corresponding with the Purchaser and its counsel regarding the APA and the Transaction, including engaging in extensive negotiations.

10. The initial bid deadline for interested parties to submit a bid in the Sale Process was July 25, 2023 (the “**Initial Bid Deadline**”).

11. 44 parties executed the NDA and were provided access to the VDR to conduct due diligence.

12. After the Initial Bid Deadline had passed, the Receiver invited all bidders who had submitted offers by the Initial Bid Deadline to submit improved offers by August 25, 2023.

13. The APS was deemed to be the winning bid in the Sale Process.

C. *APS and the Transaction*

14. The material terms of the APS are set out in the Seventh Report.

15. The requested AVO approves the APS and vests the Purchased Assets (as defined in the APS) in the Purchaser, free and clear of any claims and encumbrances (other than as set out in the APS) upon closing of the Transaction.

16. The market was widely canvassed. The process undertaken by the Receiver to market the Nao II Real Property was commercially reasonable and conducted in accordance with the terms of the Sale Process.

17. The APS represents the best offer received for the Nao II Real Property. In that regard, the Transaction provides for the greatest recovery available for the Debtor's stakeholders in the circumstances.

D. Approval of the Receivership Fees and Costs

18. The fees and disbursements of the Receiver and its counsel are reasonable and were properly incurred in discharging the Receiver's duties.

19. The methodology for allocating the general professional fees, disbursements and costs of the Receiver and its counsel was summarized in the Receiver's third report to Court dated September 7, 2023 and approved by the Court pursuant to an Order dated September 14, 2023. The Receiver and its counsel have allocated such fees, disbursements and costs evenly across each of the Stateview Group receivership entities. In the Receiver's view, this is the most practical and reasonable basis to allocate such fees.

E. Receiver's Reports and Activities

20. The Receiver has acted reasonably and prudently and has properly discharged the Receiver's activities as described in the Seventh Report, and it is appropriate to approve the Receiver's activities described therein.

F. Proposed Reserves and Activities

21. The Receiver is seeking the Court's authorization and direction to distribute the net sale proceeds to the Lenders, as partial payment of the balance owing by the Debtor to the Lenders, less:

- (a) unpaid professional fees of the Receiver and its counsel from the commencement of the receivership proceeding to and including January 31, 2024;
- (b) \$100,000 as a holdback for estimated ongoing professional fees and costs to complete the administration of these proceedings.

G. Termination and Disclaimer of Pre-Sale Purchase Agreements

22. Termination and disclaimer of any and all pre-sale purchase agreements, as described more fully in the Seventh Report, is just in all the circumstances for the reasons set out in the Seventh Report.

H. Sealing of Confidential Sale Process and Transaction Information

23. The Receiver is seeking a sealing of the offer summaries and unredacted APS, which are being filed on a confidential basis as Confidential Appendices "1" and "2" to the Seventh Report.

24. These documents contain sensitive information, including the identity of the bidders, the value of the APS, and the value of other bids received for the Property, that could adversely impact the future marketability of the Property should the transaction not close.

25. Sealing this information is necessary to maximize recoveries in this proceeding and maintain the integrity and confidentiality of key information in the Sale Process.

26. The salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so under the circumstances. The Receiver is not aware of any party that will be prejudiced if the information is sealed or any public interest that will be served if such details are disclosed in full. The Receiver is of the view that the sealing of the Confidential Appendices is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25. Accordingly, the Receiver believes the proposed sealing of the Confidential Appendices is appropriate in the circumstances.

I. Statutory and other grounds

27. Rules 1.04, 2.03, 3.02(1), 16, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and

28. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Seventh Report of the Receiver dated February 7, 2024 and the appendices attached thereto;
- (b) the Fee Affidavits; and

- (c) such further and other evidence as counsel may advise and this Honourable Court may permit.

February 7, 2024

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Lawyers for the Receiver

TO: THE SERVICE LIST

ATRIUM MORTGAGE INVESTMENT CORP et al.
 Plaintiffs

STATEVIEW HOMES (NAO TOWNS II) INC. et al.
 Defendants

**ONTARIO
 SUPERIOR COURT OF JUSTICE
 COMMERCIAL LIST**

PROCEEDING COMMENCED AT
 TORONTO

NOTICE OF MOTION

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Lawyers for the Receiver

TAB 2



**Seventh Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Stateview Homes (Nao Towns II) Inc.**

February 7, 2024

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COURT FILE NUMBER: CV- 23-00698395-00CL

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

B E T W E E N:

**ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL
CORPORATION**

APPLICANT

- AND -

STATEVIEW HOMES (NAO TOWNS II) INC.

RESPONDENT

**APPLICATION UNDER SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY*
ACT R.S.C.1985 C. B-3, AS AMENDED, AND UNDER SECTION 101 OF THE *COURTS*
OF JUSTICE ACT, R.S.O. 1990, C. C.43**

**SEVENTH REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

FEBRUARY 7, 2024

1.0 Introduction

1. On May 2, 2023, the Ontario Superior Court of Justice (the “Court”) issued separate receivership orders appointing KSV Restructuring Inc. (“KSV”) as the receiver and manager (the “Receiver”) of the property, assets and undertaking owned by the following entities in the Stateview Group of Companies (the “Stateview Group”), including their real property:
 - a) Stateview Homes (Nao Towns II) Inc. (“Nao II”), pursuant to an action commenced by Atrium Mortgage Corporation (“Atrium”) and Dorr Capital Corporation (“Dorr” and together with Atrium, the “Lenders”);
 - b) Highview Building Corp Inc. (“Highview”), pursuant to an application commenced by Dorr;
 - c) Stateview Homes (BEA Towns) Inc., pursuant to an application commenced by Dorr; and

- d) Stateview Homes (Nao Towns) Inc. (“NAO-I”), Stateview Homes (Minu Towns) Inc. (“Minu Towns”), Stateview Homes (High Crown Estates) Inc. (“High Crown”), Stateview Homes (On the Mark) Inc. (“On the Mark”) and TLSFD Taurasi Holdings Corp. (“Taurasi Holdings”), pursuant to an application commenced by Kingsett Mortgage Corporation and Dorr.
2. On May 18, 2023, the Court issued an order appointing KSV as receiver of the property, assets and undertaking of Stateview Homes (Elm&Co) Inc., including its real property, pursuant to an application by Meridian Credit Union Limited.
 3. Each of the Stateview receivership entities referenced above (the “Receivership Companies”) is a single-purpose real estate development company that owns a specific real property and a project¹.
 4. Pursuant to an order of the Court dated June 5, 2023 (the “Sale Process Order”), the Court approved a sale process (the “Sale Process”) for the property owned by each of the Receivership Companies, except for On the Mark, for which the Court approved a sale process on July 19, 2023.
 5. Pursuant to various orders of the Court issued in the Stateview Group receivership proceedings, the Court has approved sale transactions (the “Approved Transactions”) in respect of the following properties:
 - a) Highview;
 - b) NAO-I ;
 - c) Minu Towns;
 - d) High Crown; and
 - e) certain properties owned by Taurasi Holdings.
 6. This report (the “Seventh Report”) is filed by KSV, as the receiver and manager of Nao II, in connection with the Receiver’s recommendation that the Court approve a sale of Nao II’s real property (the “Nao II Real Property”) and certain other property associated with the Nao II Real Property (the “Purchased Assets”). A copy of the Nao II receivership order (the “Nao II Receivership Order”) is provided as Appendix “A”.

1.1 Purposes of this Report

1. The purposes of this Seventh Report are to:
 - a) provide background information concerning the Stateview Group receivership proceedings, the Sale Process and the Purchased Assets;
 - b) summarize the results of the sale process for the Purchased Assets (the “Nao II Sale Process”);

¹ TLSFD Taurasi Holdings Corp. owns four industrial properties.

- c) summarize a proposed transaction (the “Transaction”) between the Receiver and 1000707996 Ontario Inc. (the “Purchaser”) for the sale of the Purchased Assets pursuant to an agreement of purchase and sale dated November 29, 2023, as amended on January 17, 2024 (the “APS”);
- d) recommend that this Court issue an approval and vesting order (the “AVO”):
 - i. approving the APS and the Transaction; and
 - ii. transferring and vesting all of Nao II’s right, title and interest in and to the Purchased Assets in the Purchaser, free and clear of all liens, charges, security interests and encumbrances, other than the Permitted Encumbrances (as defined in the APS), following the Receiver’s delivery of the Receiver’s certificate (the “Receiver’s Certificate”) substantially in the form attached as Schedule “A” to the proposed AVO;
- e) recommend that this Court issue an order (the “Ancillary Relief Order”):
 - i. approving the Receiver’s termination of the Pre-Sale Purchase Agreements (as defined below);
 - ii. authorizing and directing the Receiver to make certain payments and distributions, including one or more distributions to the Lenders, being Nao II’s mortgagees with the earliest registration on title to the Nao II Real Property;
 - iii. maintaining certain reserves from the proceeds of the sale of the Purchased Assets;
 - iv. approving the fees and disbursements of the Receiver and Paliare Roland Rosenberg Rothstein LLP (“Paliare”), the Receiver’s counsel in respect of Nao II, as summarized below;
 - v. sealing the Confidential Appendices to this Seventh Report; and
 - vi. approving the Seventh Report and the Receiver’s activities described therein.

1.2 Restrictions

1. In preparing this Seventh Report, the Receiver has relied upon: (i) Nao II’s unaudited financial information; (ii) information provided by the Lenders; (iii) discussions with various stakeholders in these proceedings (including their legal representatives); and (iv) the receivership application materials (collectively, the “Information”).
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Seventh Report by any party.

2.0 Background

1. The Stateview Group is a real estate developer with its head office in Vaughan, Ontario. The Stateview Group had been in business since 2010 and primarily developed low-rise residential projects in Southern Ontario.
2. Nao II is a single-purpose real estate development company that owns the Nao II Real Property, which is comprised of properties having municipal addresses at 7810, 7822, 7834, 7846, McCowan Road, Markham, Ontario. As of the date of the Receivership Order, Nao II was advancing the development of a project that contemplated 84 townhomes. Construction on the Nao II project (the “Project”) had not commenced as of the date of the Nao II Receivership Order.
3. The Project was marketed as a pre-construction residential developmental project wherein purchasers (the “Pre-Sale Purchasers”) entered into pre-sale purchase agreements (the “Pre-Sale Purchase Agreements”).
4. As a general condition to entering into a Pre-Sale Purchase Agreement, a Pre-Sale Purchaser was required to pay one or more deposits to Nao II (each a “Homebuyer Deposit” and collectively, the “Homebuyer Deposits”). Based on the Stateview Group’s records, the Receiver understands that 76 Pre-Sale Purchasers made Homebuyer Deposits on the Project totalling approximately \$7.617 million.
5. Additional background information regarding Nao II and the reasons for the appointment of the Receiver are provided in the receivership application materials filed by the Lenders. Copies of the Court materials filed to-date in these proceedings are available on the Receiver’s case website at: <https://www.ksvadvisory.com/experience/case/stateview-homes>.

3.0 Secured Creditors

1. As of the date of the Receivership Order, the Lenders were owed approximately \$24.4 million, plus interest and costs which have accrued since that date (the “Lenders’ Indebtedness”).
2. The Lenders’ security consists of, among other things, (i) a general security agreement dated April 19, 2022 (the “GSA”); and (ii) the lenders’ mortgage, being a mortgage/charge (the “Lenders’ Mortgage”) which was registered on title on May 20, 2022 (jointly with the GSA, the “Lenders’ Security”).
3. Paliare has provided the Receiver with an opinion that, subject to the standard assumptions and qualifications contained therein, the Lenders’ Security, as registered on title to the Nao II Real Property (by way of the Lenders’ Mortgage) and under the Ontario *Personal Property Security Act*, create valid and enforceable charges on the Nao II Real Property and Nao II’s personal property.²

² A copy of the opinion can be provided to the Court upon request.

4. As reflected on the title search for the Nao II Real Property: (i) Bergo Investment Limited, MCO Management Inc. and Tony Karamitsos (“the Bergo Parties”) registered a \$28.5 million charge against the Nao II Real Property on December 16, 2022; and (ii) The Toronto-Dominion Bank (“TD”) registered a charge against the Nao II Real Property on April 6, 2023 in the amount of \$37,134,091. As the purchase price under the Transaction is not sufficient to make any distributions to the Bergo Parties or TD as a result of the Transaction, the Receiver has not reviewed their respective charges or sought an opinion with respect to the validity or priority of such charges.

4.0 Lien Claimant

1. GEI Consultants Ltd. (“GEI”) registered a lien in the amount of \$68,368 against the Real Property on May 5, 2023 (the “GEI Lien”) and a certificate of action on June 30, 2023.
2. GEI issued a Statement of Claim on June 28, 2023. On August 6, 2023, Paliare confirmed to counsel for GEI that the Receiver would accept service of the Statement of Claim on the condition and understanding that the claim is otherwise stayed and that no steps will be taken to advance the claim.
3. On May 10, 2023, Paliare wrote to GEI’s counsel to ask for general information about the GEI Lien, including details of the alleged contract and amounts claimed. No response has been provided by GEI or its counsel.
4. Counsel for GEI will be served with a copy of this motion.
5. The GEI Lien alleges that services or materials were supplied to Nao II from April 6, 2022 to March 29, 2023. According to the Statement of Claim, the first invoice relating to the GEI Lien was rendered to Nao II on May 12, 2022 in the amount of \$7,673.69, inclusive of HST.

5.0 Tarion and Class Action Claims

1. Tarion Warranty Corporation (“Tarion”) provides deposit insurance coverage to homebuyers. Tarion brought a motion in these receivership proceedings to secure the Homebuyer Deposits seeking the imposition of certain trusts and priority charges over the property of certain of the Stateview Receivership Companies, including Nao II (the “Tarion Motion”).
2. The Tarion Motion was opposed by the Receiver along with various secured creditors and claimants of the Stateview Receivership Companies. The Tarion Motion was heard by the Honourable Madam Justice Steele on November 2, 2023. Pursuant to reasons dated December 22, 2023, Justice Steele dismissed the Tarion Motion (the “December 22 Decision”). A copy of the December 22 Decision is attached as Appendix “B”.

3. In addition, on September 29, 2023, the Receiver received a copy of a Statement of Claim issued on September 28, 2023 by Dharmi Mehta (as proposed representative plaintiff on behalf of a proposed class of Pre-Sale Purchasers) commencing a proposed class action against certain of the Stateview Receivership Companies, including Nao II, and other individuals (including Dino and Carlo Taurasi) (the “Proposed Class Action”). A copy of the Proposed Class Action is attached at Appendix “C”.
4. The Proposed Class Action was issued in breach of the stay of proceedings pursuant to the Receivership Order and counsel to the Receiver has been in communication with counsel to the Proposed Class Action plaintiff in this regard.
5. The Receiver notes that the relief proposed to be sought in the Proposed Class Action includes the imposition of the same trusts and/or charges in respect of Homebuyer Deposits that were sought in the Tarion Motion, plus a trust claim under the *Condominium Act* that was not sought in the Tarion Motion (the “Condominium Act Claim”).
6. The Condominium Act Claim alleges, among other things, that a portion of the purchase price for the freehold units related to common elements in a condominium and, as such, ought to have been held in trust under the *Condominium Act*.
7. The Receiver notes that the Pre-Sale Purchase Agreements (as defined below) provide that: (i) only \$2 of the purchase price for each unit applies to the common interest in the condominium and (ii) in any case, *none* of the deposit relates to the common interest in the condominium. A sample redacted copy of a Pre-Sale Purchase Agreement is attached as Appendix “D”. For privacy purposes, the Pre-Sale Purchaser’s personal information is redacted.
8. In its Sixth Report to the Court dated November 8, 2023, the Receiver noted that depending on the outcome of the Tarion Motion, it may be necessary to seek a determination of the Condominium Act Claim on a further motion before the Court.
9. The Receiver is of the view that the reasons and analysis in the December 22 Decision apply fully to the Condominium Act Claim and dispose of any argument that the Condominium Act Claim could have priority over the Lenders to the proceeds of sale of the Purchased Assets (even to the extent of the \$2 per unit contemplated in the Pre-Sale Purchase Agreements).
10. On January 23, 2024, counsel to the Receiver wrote to counsel for the Proposed Class Action and advised of the Receiver’s position. The Receiver’s counsel further advised that the Receiver intended to proceed with the distribution of proceeds of realization as they arise, including those now existing, and without regard to claims in the Proposed Class Action. A copy of the Receiver’s counsel’s correspondence is provided in Appendix “E”.
11. Counsel in the Proposed Class Action responded to the Receiver’s counsel on January 29, 2024. Counsel in the Proposed Class Action takes the position that, among other things, the Condominium Act Claim was not before Justice Steele and that the December 22 Decision does not apply to that claim. A copy of counsel’s correspondence is provided in Appendix “F”.

6.0 Sale Process

1. The Receiver carried out the Sale Process in accordance with the Sale Process Order. The Receiver's report to court dated May 30, 2023 (the "First Report") detailed the contemplated Sale Process. A copy of the First Report (without appendices) is provided in Appendix "G".
2. Pursuant to the Sale Process Order, the Receiver retained realtors to list for sale the real property owned by the Receivership Companies. Cushman & Wakefield ULC ("Cushman") was retained to list the Nao II Real Property.
3. Cushman launched the Sale Process on June 15, 2023, by, *inter alia*, distributing an investment summary (the "Teaser") and a form of non-disclosure agreement ("NDA") to its data base of approximately 8,500 buyer prospect contacts. Cushman directly solicited interest in the Nao II Real Property to parties it thought may have an interest in the Nao II Real Property. Interested parties were required to sign the NDA to access a virtual data room ("VDR").
4. The VDR includes information regarding the Nao II Real Property, such as contracts, permits, designs, drawings and other due diligence information that had been provided to the Receiver by third parties (such as a letter from KLM Planning Partners Inc., an urban planner) or the Lenders, as well as an offering memorandum (the "Offering Memorandum") prepared by Cushman, with the assistance of the Receiver.
5. The VDR also includes a form of agreement of purchase and sale (the "Template APS"). Prospective purchasers were encouraged to submit offers in the form of the Template APS, together with a blackline against the Template APS.
6. The listing was also advertised to co-operating brokers via the multiple listing service website.
7. The Receiver set an initial bid deadline of July 25, 2023 (the "First Bid Deadline") which was announced to Cushman's prospects database, as well as any buyer prospects that had engaged in discussions with Cushman regarding the opportunity.

6.1 Sale Results

1. Cushman's report dated February 1, 2024 summarizing its activities to market the Nao II Real Property for sale is provided as Appendix "H" (the "Cushman Report"). The Cushman Report includes a summary of initial and subsequent offers (the "Offer Summaries") received for the Nao II Real Property, which summary has been redacted for the names and amounts of each offer received in the Sale Process. An unredacted copy of the Cushman Report is attached as Confidential Appendix "1". The Receiver's recommendation regarding sealing this information is discussed in Section 7.5 below.
2. As discussed in the Cushman Report, Cushman widely canvassed the market and received 44 signed NDAs for the Nao II Real Property.

3. In consultation with Cushman and the Lenders, the Receiver reviewed the bids and the Receiver and/or Cushman engaged in direct discussions with the leading bidders to clarify their bids, including their conditionality, financial ability to close and any other due diligence that remained outstanding. After the First Bid Deadline, the Receiver requested that Cushman approach all bidders who submitted offers by the First Bid Deadline to submit improved offers by August 25, 2023 (the “Second Bid Deadline”). Seven parties submitted bids by the Second Bid Deadline including certain parties that did not submit bids by the First Bid Deadline.
4. After consultation with the Lenders and Cushman, the Receiver executed a conditional offer on August 24, 2023 (the “Initial Offer”) from a prospective purchaser. As the purchaser did not waive its conditions, the Initial Offer was terminated and Cushman thereafter had discussions with parties that had previously expressed an interest in the Nao II Real Property.
5. The Receiver advanced negotiations with another interested party; however, the parties were unable to reach an agreement. Cushman thereafter continued to market the Nao II Real Property for sale.
6. The Purchaser (cba as Regency Property) submitted an initial offer on November 2, 2023. The Receiver, in consultation with the Lenders, negotiated the terms of the APS, which was executed on November 29, 2023. Pursuant to the APS, the Purchaser had a deadline of January 10, 2024 to waive its conditions, which it did, subject to a reduction in its purchase price, to which the Lenders agreed. A final amendment to the APS (for the amount of the purchase price only) and a waiver of the Due Diligence Condition was signed on January 17, 2024 (the “Waiver and Amendment”). The only remaining condition at this time is Court approval.

7.0 The Transaction³

7.1 The APS

1. The following section summarizes the APS. A copy of the redacted APS, including the redacted Waiver and Amendment, is attached as Appendix “I”. A copy of the unredacted APS, including the unredacted Waiver and Amendment, is attached as Confidential Appendix “2”. Only the Purchase Price and the amount of the Deposit have been redacted.
2. The key terms and conditions of the APS are provided below.
 - **Purchased Assets**: substantially all of Nao II’s right, title and interest in:
 - a) the Nao II Real Property;
 - b) the Contracts; and

³ Capitalized terms in this section have the meaning provided to them in the APS unless otherwise defined herein.

- c) the Permits, the Re-Zoning Application and Consents and Approvals, but only to the extent transferable to the Purchaser or the Purchaser's permitted assignees including any fees and/or deposits paid in connection with the Re-Zoning Application.

The Purchaser acknowledges and agrees that it shall not call upon the Receiver to produce any title deed, abstract of title, survey or other evidence of title that is not within the Receiver's possession or control.

- **Excluded Assets:** all assets, undertaking and property other than the Purchased Assets, including:
 - a) all cash, cash equivalents, accounts receivable and prepaid expenses or deposits of Nao II;
 - b) tax records, books and records and minute books; and
 - c) refundable Taxes applicable to the period prior to the Closing Date.

- **Purchase Price:** For the reasons provided in Section 7.5 of this Report, the Receiver is seeking to have the purchase price sealed pending closing of the Transaction.

The Purchase Price is to be adjusted on closing for standard adjustments for a real estate transaction, including property taxes.

- **Deposit:** A deposit has been paid to the Receiver.
- **Excluded Liabilities:** All liabilities, other than the Permitted Encumbrances.
- **Representations and Warranties:** Consistent with the standard terms of an insolvency transaction, i.e. on an "as is, where is" basis, with limited representations and warranties.
- **Closing Date:** the date that is the later of (i) 10 days following the date on which the AVO is issued by the Court; and (ii) 10 days following the date on which any appeals or motions to set aside or vary the AVO have been finally determined; and (iii) other dates which have passed or will occur prior to the dates set out in (i) and (ii).
- **Material Conditions:** include, among other things:
 - a) there shall be no Claim, litigation or proceedings pending or threatened or order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper; and
 - b) the Court shall have issued the AVO.

7.2 Purchase of Land from the York Region

1. The Regional Municipality of York (“York”) and Nao II entered into an agreement of purchase and sale dated December 14, 2022, which agreement has been amended three times as described below (the “York Region APS”).
2. Pursuant to the York Region APS, York agreed to sell to Nao II two parcels of land (the “York Property”) with closing to occur on March 31, 2023. The York Property was required to advance Nao II’s development application. A copy of the York Region APS is included as Appendix “J”.
3. On March 13, 2023, York and Nao II entered into an amending agreement (the “First York Region Amendment”) to extend the outside closing date to May 31, 2023, a copy of which amending agreement is included as Appendix “K”.
4. On May 31, 2023, the Receiver entered into a further amending agreement which extended the outside closing date to November 15, 2023 and provided Nao II the right to extend the closing date for up to a further 60 days, on at least 30 days notice to York (the “Second York Region Amendment”).
5. On October 11, 2023, the Receiver provided York with written notice that it was exercising its right to extend the closing date to January 15, 2024 (the “York Notice”). A copy of the Second York Region Amendment and York Notice is included as Appendix “L”.
6. On December 19, 2023, the Receiver and York entered into the Third Amendment to the Agreement of Purchase and Sale (the “Third York Region Amendment”) pursuant to which the closing date was extended to February 29, 2024. A copy of the Third York Region Amendment is included as Appendix “M”.
7. Pursuant to the APS, the Purchaser agreed to assume and take all steps as are necessary to take an assignment from the Receiver of the Receiver’s rights and obligations in connection with the York Region APS, including payment to York Region of the purchase price of \$445,000 for the York Property.

7.3 Disclaimer of Pre-Sale Purchase Agreements

1. The APS contemplates that the Purchaser shall provide notice to the Receiver prior to the expiry of the Due Diligence Period (being January 10, 2024) of the Contracts it intends to assume. The Purchaser did not provide the Receiver notice of its intention to assume any Pre-Sale Purchase Agreements.
2. Pursuant to the proposed AVO, the Receiver is seeking the authority to terminate and disclaim all of Nao II’s Pre-Sale Purchase Agreements. The Receiver notes that the vendor on the Pre-Sale Purchase Agreements was Stateview Homes (Nao Towns) Inc. notwithstanding that the agreements were in respect of the Nao II development.
3. The Receiver recommends that the Court approve the Receiver’s authority to terminate and disclaim the Pre-Sale Purchase Agreements as the APS represents the best offer received for the Purchased Assets and the Purchaser is unprepared to assume the Pre-Sale Purchase Agreements.

4. The Receiver intends to serve each of the Pre-Sale Purchasers (or, if applicable, their counsel) with this motion by email. The Receiver will also post a notice on the Receiver's website informing the Pre-Sale Purchasers of the motion and the Receiver's intention to terminate the Pre-Sale Purchase Agreements.
5. Termination of the Pre-Sale Purchase Agreements will allow the Pre-Sale Purchasers to claim deposit refunds from Tarion. The Receiver and its counsel have been contacted by numerous Pre-Sale Purchasers, each of whom is anxious to move forward with their claims to Tarion and receive a refund of their deposits.
6. The Receiver intends to work with Tarion to assist with the deposit claim process for the Pre-Sale Purchasers.

7.4 Transaction Recommendation

1. The Receiver recommends the Court issue the proposed AVO approving the Transaction for the following reasons:
 - a) the process undertaken by the Receiver, with the assistance of Cushman, to market the Nao II Real Property was commercially reasonable and conducted in accordance with the terms of the Sale Process Order;
 - b) the process undertaken to sell the Nao II Real Property is substantially similar to the process used for the Approved Transactions;
 - c) Cushman has extensive experience selling development properties in and around the Greater Toronto Area and widely canvassed the market for prospective purchasers;
 - d) in Cushman's view, it is unlikely that exposing the Nao II Real Property to the market for additional time will result in a superior transaction;
 - e) the Receiver and Cushman are of the view that the Transaction provides for the greatest recovery available for the benefit of Nao II's stakeholders in the circumstances;
 - f) the Purchaser has paid a material non-refundable deposit and the transaction is unconditional, except for Court approval;
 - g) the Lenders consent to the Transaction;
 - h) approval of the Transaction and the termination of the Pre-Sale Purchase Agreements will allow the Pre-Sale Purchasers to file claims with Tarion to obtain a refund of their deposits; and
 - i) as at the date of this Seventh Report, the Receiver is not aware of any objections to the relief being sought pursuant to the proposed AVO.

7.5 Sealing

1. The Receiver recommends that the unredacted copy of the Cushman Report and APS (as amended) be filed with the Court on a confidential basis and remain sealed pending further order of the Court or closing of the Transaction, as making such information publicly available may negatively impact any future sale process for the Purchased Assets if the Transaction is not approved or does not close. In addition, the Cushman Report includes a discussion of the other offers received in the process, including the identity of the bidders and the value of other bids received for the Property, that similarly could adversely impact the future marketability of the Property should the Transaction not close.
2. Sealing this information until the corresponding transactions close or further Order of the Court is necessary to maximize recoveries in these proceedings and maintain the integrity and confidentiality of key information in the Sale Process.
3. In the circumstances, the Receiver believes that the proposed sealing of the Confidential Appendices is appropriate, as the salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so under the circumstances. The Receiver is therefore of the view that the proposed sealing is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25.

8.0 Distributions

1. The Receiver is seeking the Court's authorization and direction to distribute (the "Initial Distribution") the net sale proceeds to the Lenders as partial payment of the balance owing by Nao II to the Lenders, less: (i) the unpaid professional fees described in section 10; and (ii) a holdback of \$100,000 for ongoing professional fees and costs to complete the administration of these proceedings (the "Holdback"), including approximately \$20,000 in respect of out-of-pocket disbursements related to the safeguarding and upkeep of the Nao II Real Property.
2. The Receiver is also seeking the Court's authority to make one or more subsequent distributions to the Lenders of any amounts from the Holdback (in the Receiver's discretion), up to the amount of Nao II's indebtedness to the Lenders.

9.0 Receiver's Activities

1. In addition to dealing with the matters addressed above, the Receiver's activities in respect of Nao II include:
 - a) reviewing information provided by the Lenders relating to the Nao II Real Property, including Nao II's development status;
 - b) corresponding with Paliare, the Lenders and Chaitons LLP, counsel to the Lenders, regarding all aspects of this mandate;
 - c) developing and carrying out the Sale Process;
 - d) reviewing and commenting on drafts of the Sale Process materials, including the Teaser, NDA and Offering Memorandum;
 - e) reviewing information uploaded to the VDR;

- f) dealing with Cushman regarding due diligence requests from prospective purchasers;
- g) attending update calls with Cushman and the Lenders regarding the status of the Sale Process;
- h) reviewing the motion materials and related orders;
- i) corresponding with Masters Insurance, Nao II's insurance broker;
- j) corresponding with Nao II's creditors;
- k) corresponding with Canada Revenue Agency regarding Nao II's HST accounts;
- l) dealing with the Tarion litigation;
- m) dealing with Pre-Sale Purchasers;
- n) filing HST returns; and
- o) drafting this Seventh Report and reviewing the motion materials in respect of same.

10.0 Professional Fees

1. Where possible, the Receiver and Paliare have allocated their fees to a specific Stateview Group receivership entity when their activities relate to a specific entity. A significant portion of the activities performed by the Receiver and Paliare are of a general nature, and are not specifically allocable to a specific entity, including drafting certain reports to Court and obtaining background information concerning the Stateview Group.
2. The methodology for allocating the general portion of the professional fees, disbursements and costs of the Receiver and its counsel was summarized in the Receiver's third report to Court dated September 7, 2023 and approved by the Court pursuant to an Order dated September 14, 2023, which is provided as Appendix "N" (without attachments). Accordingly, the Receiver and Paliare have allocated such fees, disbursements and costs evenly across each of the Stateview Group receivership entities.
3. The fees of the Receiver since the commencement of the receivership proceeding to January 31, 2024 for Nao II specifically, together with the general fees allocated to Nao II on the basis noted above, total \$97,834.74, excluding disbursements and HST.
4. Paliare's fees for the same period for Nao II specifically and the general fees allocated to Nao II on the basis noted above total \$63,888.50, excluding disbursements and HST.
5. Fee affidavits and accompanying invoices in respect of the fees and disbursements of the Receiver and Paliare for these periods are attached as Appendices "O" and "P", respectively, to this Seventh Report.

6. The average hourly rate for the Receiver for the referenced billing period was \$596.73. The average hourly rate for Paliare was \$828.64.
7. The Receiver is of the view that Paliare's hourly rates are consistent with or lower than the rates charged by other law firms practicing in the area of insolvency in the Toronto market, and that its fees are reasonable and appropriate in the circumstances.

11.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make orders granting the relief detailed in Section 1.1(1) (d) and (e) of this Seventh Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
STATEVIEW HOMES (NAO TOWNS II)
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

Appendix “A”

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

THE HONOURABLE MADAM)	TUESDAY, THE 2 ND
)	
JUSTICE STEELE)	DAY OF MAY, 2023
)	

B E T W E E N:

**ATRIUM MORTGAGE INVESTMENT CORPORATION and DORR
CAPITAL CORPORATION**

Plaintiffs

- and -

**STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI and
CARLO TAURASI**

Defendants

**ORDER
(appointing Receiver)**

THIS MOTION, made by the Plaintiffs for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing KSV Restructuring Inc. as receiver (the “**Receiver**”) without security, of all of the assets, undertakings and properties of Stateview Homes (Nao Towns II) Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day via videoconference.

ON READING the Affidavit of Brian Dorr sworn April 25, 2023 and the Exhibits thereto, and on hearing the submissions of counsel for the Plaintiffs, the Defendants, and the other parties listed on the Participant Information Sheet, no one else appearing for the parties listed on the service list although duly served as appears from the affidavits of service filed with the Court, and on reading the consent of KSV Restructuring Inc. to act as the Receiver, and on consent of the Debtor,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”), and including, without limitation, the real property municipally known as 7810, 7822, 7834 and 7846 McCowan Road, Markham, Ontario and described legally in Schedule “A” attached hereto.

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor, provided that the Receiver shall not cease to perform,

repudiate or disclaim any agreements of purchase and sale entered into by the Debtor prior to May 29, 2023, without further Order of the Court;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

3A. THIS COURT ORDERS that notwithstanding anything else in this Order, no formal marketing or sale process shall be commenced (including the service of any motion for court approval of a sale process or solicitation of potential purchasers) in respect of the Property before May 29, 2023. For certainty, the Receiver may seek proposals from brokers provided that all brokers are required to sign non-disclosure agreements before being provided with any confidential information, prepare marketing materials and do such other things it deems appropriate to prepare for a marketing or sale process.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “Records”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records,

or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current

telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

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

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to

whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

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

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”)

as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL "<https://www.ksvadvisory.com/experience/case/stateview-homes>".

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile

transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

27. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

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

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

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

31. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

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

34. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original, signing, entry and filing, as the case may be, when the Court returns to regular operation.



SCHEDULE "A"

Legal Description: PT LT 6, CON 6, AS IN R640261; MARKHAM

PIN: 02962 – 0270 LT

Municipal Address: 7810 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN MA69140; MARKHAM

PIN: 02962 – 0271 LT

Municipal Address: 7822 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, PART 1, 2, 65R17687

PIN: 02962 – 0272 LT

Municipal Address: 7834 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN R491185; T/W MA54373

PIN: 02962 – 0273 LT

Municipal Address: 7846 MCCOWAN ROAD, MARKHAM, ONTARIO

SCHEDULE “B”
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties of Stateview Homes (Nao Towns II) Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 2nd day of May, 2023 (the “**Order**”) made in a motion having Court file number CV-23-00698395-00CL, has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

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

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

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

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

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

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

DATED the ____ day of _____, 202__.

KSV RESTRUCTURING INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____
Name:
Title:

ATRIUM MORTGAGE INVESTMENT CORPORATION et al. -and-

Plaintiffs

STATEVIEW HOMES (NAO TOWNS II) INC., et al.

Defendants

Court File No. CV-23-00698395-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

CHAITONS LLP

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

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Email: laurac@chaitons.com

Lawyers for the Plaintiffs

Appendix “B”

CITATION: Kingsett Mortgage Corp et al v. Stateview Homes et al., 2023 ONSC 7105

COURT FILE NO.: CV-23-00698395-00CL

CV-23-00698632-00CL

CV-23-00698637-00CL

CV-23-00698576-00CL

CV-23-00699067-00CL

DATE: 2023-12-22

SUPERIOR COURT OF JUSTICE – ONTARIO [COMMERCIAL LIST]

RE: KINGSETT MORTGAGE CORPORATION AND DORR CAPITAL CORPORATION, Applicant

AND:

STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (NAO TOWNS) INC., STATEVIEW HOMES (ON THE MARK) INC., AND STATEVIEW HOMES (HIGH CROWN ESTATES) INC. et al, Respondents

DORR CAPITAL CORPORATION Applicant

AND:

HIGHVIEW BUILDING CORP INC. Respondent

DORR CAPITAL CORPORATION Applicant

AND:

STATEVIEW HOMES (BEA TOWNS) INC. Respondent

ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL CORPORATION Applicant

AND:

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI, AND CARLO TAURASI Respondents

MERIDIAN CREDIT UNION Applicant

AND:

STATEVIEW HOMES (ELM&CO) INC. Respondent

BEFORE: J. STEELE J.

COUNSEL: *Adam Slavens, David Outerbridge, Mike Noel, Jonathan Silver* for the Moving Party, Tarion Warranty Corporation

Alan Merskey, Kiyam Jamal for the Receiver, KSV Restructuring Inc. (NAO Phase 1, Minu, On the Mark, High Crown and Taurasi Holdings Receiverships)

Jeffrey Larry, Daniel Rosenbluth for the Receiver, KSV Restructuring Inc. (NAO Phase 2, BEA, Highview and Elm Receiverships)

Sean Zweig, Joseph Blinick for Kingsett Mortgage Corporation

Eric Golden for Dorr Capital Corporation

George Benchetrit for Atrium Mortgage Corporation

Vern W. DaRe for Meridian Credit Union Limited

Geoff R. Hall for Toronto-Dominion Bank

Kelly Smith Wayland for Canada Revenue Agency

Stewart Thom for Reliance Comfort Limited Partnership d/b/a Reliance Home Comfort

HEARD: November 2, 2023

ENDORSEMENT

OVERVIEW

[1] This motion arises following the declaration of bankruptcy of the Stateview entities. The Stateview entities were residential real estate developers. When the Receiver was appointed over the assets of the Stateview entities, the home construction in respect of the residential projects, other than High Crown and On the Mark, had not started. Many purchasers, however, had made deposits to one of the Stateview entities in respect of a new home purchase (the “Purchasers”). The deposits made by the Purchasers have been spent by the Stateview entities. Tarion Warranty Corporation (“Tarion”) seeks declaratory relief on behalf of these Purchasers. Tarion asks the court to declare that the deposits were subject to either an express trust or a constructive trust arising because of unjust enrichment, the beneficiaries of which express trust or constructive trust are the Purchasers. Because the deposits were not held by the Stateview entities in separate trust accounts, Tarion also seeks a remedial constructive trust and a charge elevating the Purchasers’ ranking in priority.

[2] Under the *Ontario New Homes Warranties Plan Act*, R.S.O. 1990, c. O.31 (the “Warranties Act”), new home purchasers, who would otherwise lose their deposits if the vendor went bankrupt, are entitled to receive payment out of the guarantee fund administered by Tarion for the amount of the deposit (up to \$100,000). Tarion has a statutory right of subrogation, which is why Tarion seeks declaratory relief on these issues.

[3] The Receiver made submissions opposing the relief sought by Tarion. KingSett Mortgage Corporation (“KingSett”), a secured creditor of the Stateview entities, filed materials and made submissions in support of the Receiver’s position. Several other secured creditors made brief oral submissions in support of the Receiver’s position. The Canada Revenue Agency also supports the Receiver’s position.

[4] For the reasons set out below, Tarion’s motion is dismissed.

[5] Below I provide the detailed analysis on the issues. However, at a high level, the motion fails for a few reasons. First, the Purchasers all entered into agreements with the Stateview entities under which they agreed that the lenders that provided a secured mortgage or construction financing would have priority. To the extent that any priority argument could be raised, the Purchasers contracted that these lenders would have a priority over the Purchasers’ interest. Second, Parliament sets out a statutory scheme of priorities in bankruptcy. That priority scheme recognizes super priorities for certain statutory deemed trusts. There is no statutory deemed trust in respect of the deposit funds. Further, unlike the applicable statute for condominiums (see s. 81 of the *Condominium Act, 1998*, S.O. 1998, c. 19), the applicable legislation for new homes does not require the recipient of the deposit funds to hold them in trust. There were also no express trusts created, other than in respect of limited agreements where there was an early termination provision. In these cases, however, the monies were not set aside and held in trust by the Stateview entities. Finally, the court is generally reluctant to grant an equitable remedy such as a constructive trust where doing so would upset the priority scheme set out in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “BIA”). In a bankruptcy, there can be many parties that are negatively impacted, and Parliament has established a priority scheme to deal with what money is available in the bankrupt’s estate.

[6] As submitted by Meridian, the first mortgagee on Stateview’s Elm project, it is important that the law is interpreted in a way that supports certainty, predictability, and uniformity. The subordination clause in the pre-purchase agreements provides certainty to the lenders regarding their priority status. In terms of predictability, the lenders have lent millions of dollars based on the statutory regime, which does not provide for a statutory deemed trust for Purchaser deposit monies. Finally, the Purchasers are unsecured creditors, and under the BIA priority scheme secured creditors rank ahead.

Background

[7] The moving party, Tarion, is a consumer protection agency that the Ontario government designated to administer the Warranties Act and the regulations thereunder (the “Warranties Regulations”).

[8] The Stateview entities owned and operated pre-construction residential development projects.

[9] The Stateview entities were placed into receivership under section 243(1) of the BIA and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 pursuant to orders granted on May 2, 2023, and May 18, 2023.

[10] KSV Restructuring was appointed as the Receiver over the Stateview entities' assets.

[11] The expectation is that there will not be sufficient money in the Stateview estates to pay the secured creditors in full.

[12] The beneficiaries of the trust remedy requested in this motion are approximately 765 Purchasers who paid deposits to the Stateview entities in respect of new homes to be built. In total, the deposits amount to approximately \$77 million.

[13] Under the terms of the Pre-Sale Purchase Agreements, the Purchasers were not granted any security for the deposits over the Stateview entities' real or personal property.

[14] The deposits paid by the Purchasers were held by the Stateview entities in standard mixed operating bank accounts and were used, in addition to other sources of financing, by the Stateview entities to fund their general operations and the development of the various projects. Most, if not all, of the deposits were spent by the Stateview entities prior to the commencement of the receivership proceedings.

[15] Under the Warranties Act, if a new home purchaser is entitled to a refund of their deposit from a vendor and is unable to obtain such a refund, then the purchaser can make a claim from Tarion's guarantee fund up to a maximum of \$100,000. Tarion then can assert a claim against the vendor.

[16] KingSett is owed approximately \$168 million by the Stateview entities.

Analysis

[17] Tarion requests declaratory relief from the court. Tarion's view is that clarity is required regarding certain trust and other issues to confirm the protections applicable when purchasers make deposits in respect of freehold homes.

[18] The Receiver did not raise an issue regarding whether it is appropriate for Tarion to seek declaratory relief.

[19] I consider first whether the subordination clause in the Pre-Sale Purchase Agreements is a complete answer to Tarion's motion.

Does the Subordination Clause preclude the Purchasers from asserting a priority claim?

[20] The Purchasers executed agreements in which they agreed that secured mortgages and construction financing would have priority over their interests, which precludes them from now asserting priority.

[21] The Receiver submits that the Subordination Clause contained in the Pre-Sale Purchase Agreements precludes any express contractual trust, unjust enrichment constructive trust, and remedial constructive trust claims by the Purchasers. The relevant Subordination Clause provides:

The Purchaser hereby acknowledges the full priority of any construction financing or other mortgages arranged by the Vendor and secured by the Property over his interest as Purchaser for the full amount of the said mortgage or construction financing, notwithstanding any law or statute to the contrary... Without limiting the generality of the foregoing the Purchaser agrees that this Agreement shall be subordinated and postponed to the mortgages(s) assumed and/or arranged by the Vendor... The Purchaser agrees to execute all necessary documents and assurances to give effect to the foregoing as required by the Vendor. Any breach by the Purchaser of this section shall be considered a material breach... Further the Purchaser hereby covenants and agrees that at any time prior to the Closing Date any default by him in the performance of any of his covenants or obligations contained herein shall entitle the Vendor, at its sole option, to terminate this Agreement and upon such termination, all monies paid to the Vendor hereunder shall be forfeited to the Vendor and this Agreement shall be at an end and the Purchaser shall not have any further rights hereunder... [emphasis added]

[22] The Receiver submits that this language is included in the Pre-Sale Purchase Agreements to avoid priority disputes such as the one that is now before this court. The Receiver further submits that it is reasonable to assume that lenders required the inclusion of this language and/or relied upon it.

[23] The Purchasers entered into Pre-Sale Purchase Agreements that contained explicit language acknowledging the priority of any construction financing or other mortgages that are secured on the property over the Purchaser's interest.

[24] Tarion submits that the subordination clause only pertains to the Purchaser's interest in the "Property."¹ I disagree.

[25] As set out above, the Purchaser acknowledges the priority of any construction financing or secured mortgages "over his interest as Purchaser." The word "Property" is used in the above provision to describe the security of the mortgagee not to limit what is covered by the Purchaser's agreement to subordinate. The Purchaser agreed to a complete subordination of his or her interest, which would include any interest in the deposit funds.

¹ "Property" is defined to mean the Dwelling and the POTL collectively. The POTL is the freehold parcel-of-tied land.

[26] I agree that the subordination clause that was contractually agreed to by the Purchasers precludes the Purchasers from asserting a priority claim.

Trust Claims

[27] Tarion has asked the court for declarations in respect of the trust issues in any event, which I next address.

[28] I address first whether there was an express trust in respect of home buyers where the contracts contained an early termination provision. I determine that there was an express trust in respect of these Purchasers.

[29] I next consider whether there was unjust enrichment. The unjust enrichment claim would apply in respect of those Purchasers where there is no express trust. I determine that there was no unjust enrichment because I am not satisfied that there is a lack of juristic reason.

[30] Finally, I consider whether a remedial constructive trust ought to be imposed in respect of the Purchasers where I determined that there was an express trust. I determine not to impose a remedial constructive trust based on the record before me.

Was there an express trust in respect of certain home buyers?

[31] Tarion asserts that the deposits made by the Purchasers in the Elm project (and potentially other home buyers if they had contracts with similar early termination provisions) were subject to an express trust. There are approximately 145 Purchasers in the Elm project, who have in aggregate deposited over \$16 million.

[32] I am satisfied that there was an express trust in respect of the contracts containing the early termination provisions.

[33] Purchase agreements for freehold homes in Ontario are required to incorporate the standard form Addendum pursuant to s. 9 of O. Reg. 165/08 passed under the Warranties Act. The Addendum is required to be attached to the agreement of purchase and sale and signed by the purchaser and vendor. The Addendum addresses numerous items, including conditions upon which a vendor may terminate the agreement. If the agreement is conditional on a certain sales threshold or conditional on the vendor obtaining financing (an “early termination provision”), schedule A to the Addendum contains language requiring the deposit amounts to be held in trust until the condition is waived or satisfied. Schedule A to the Addendum further provides that if the vendor fails to hold the deposit amounts in trust pending waiver or satisfaction of the early termination condition, the vendor will be deemed to hold the amounts in trust.²

² The Vendor of a home is permitted to make the Purchase Agreement conditional as follows:

b. upon:

- i. Subject to paragraph 1(c), receipt by the Vendor of confirmation that sales of homes in the Freehold Project have exceeded a specified threshold by a specified date;

[34] Tarion argues that the Elm project contracts contain an early termination provision regarding satisfactory financing and, therefore, Stateview was required to hold the deposit amounts in trust, or was deemed to do so, under Tarion's standard form Addendum.

[35] There was no evidence before the court as to whether the early termination provision regarding satisfactory financing in the Elm project had been satisfied.

[36] The relevant provisions in Schedule A to the Addendum, where applicable, require the vendor to hold the deposit funds pursuant to a Deposit Trust Agreement. Where the funds are deemed to be held in trust under Tarion's Addendum, they are deemed to be held on the same terms as set out in the form of Deposit Trust Agreement. The Recitals to the Deposit Trust Agreement that was generally used by Tarion include the following:

B. Each purchaser (a "Purchaser") of a home in the Freehold Project (a "Home" or collectively referred to as the "Homes") has paid or will pay directly to the Escrow Agent in trust deposit monies, including any sums for upgrades and extras (a "Deposit" and collectively referred to as the "Deposits") pursuant to the provisions of the agreement of purchase and sale in connection therewith (the "Purchase Agreement" and collectively referred to as the "Purchase Agreements");

C. The Purchase agreements will include conditions ("Early Termination Conditions") described in subparagraphs 1(b)(i) or 1(b)(ii) of Schedule A to the mandatory addendum form (the "Addendum") required to be attached pursuant to Regulation 165-08 under the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31, as amended, and all regulations enacted thereunder (the "ONHWP Act") thus pursuant to Section 1(c)(iv) of Schedule A to the Addendum the Deposits are required to be held in trust (the "Purchaser Trust") by the Vendor's lawyer (Escrow Agent) pursuant to the Addendum and subject to the interest of Tarion pursuant to a deposit trust agreement in form specified by Tarion or secured by other security acceptable to Tarion and arranged in writing with Tarion. This Agreement is the afore-mentioned deposit trust agreement.

-
- ii. Subject to paragraph 1(c), receipt by the Vendor of confirmation that financing for the Freehold Project on terms satisfactory to the Vendor has been arranged by a specified date;

[...]

- c. the following requirements apply with respect to the conditions set out in subparagraph 1(b)(i) or 1(b)(ii):

[...]

- iv. until the condition is satisfied or waived, all monies paid by the Purchaser to the Vendor, including deposit(s) and monies for upgrades and extras: (A) shall be held in trust by the Vendor's lawyer pursuant to a deposit trust agreement (executed in advance in the form specified by Tarion Warranty Corporation, which form is available for inspection at the offices of Tarion Warranty Corporation during normal business hours), or secured by other security acceptable to Tarion and arranged in writing with Tarion, or (B) failing compliance with the requirement set out in clause (A) above, shall be deemed to be held in trust by the Vendor for the Purchaser on the same terms as are set out in the form of deposit trust agreement described in clause (A) above.

D. Subject to the contractual trust requirements – the Purchaser Trust – under Schedule A to the Addendum the Deposits are to be held in trust with the Escrow Agent until Tarion determines, in accordance with this Agreement, that the Deposit Funds can be released upon and subject to the terms of this Agreement;

E. The Escrow Agent has agreed to hold all of the Deposits received by it from time to time pursuant to the provisions of the Purchase Agreements and this Agreement and to place and invest same in a separate, designated and segregated trust account at, account no. (the “Bank Account”), and to hold and monitor same in trust for Purchasers and Tarion in accordance with the terms and provisions of this Agreement. Interest accruing on all Deposits held in the Bank Account shall remain in the Bank Account and may only be released from and after the Purchaser Trust Termination Date to the Vendor upon the production of Replacement Security (as this term is later defined) or upon Tarion’s written confirmation that security in respect of the Deposits is no longer required hereunder, and under those circumstances contemplated in Section 5.2 hereof same shall be paid or remitted to Tarion;

F. The Deposits (together with all prescribed interest earned or accrued thereon, less any amounts released in accordance with the provisions of this Agreement) (the “Deposit Funds”) placed or invested in the Bank Account shall constitute continuing security for the payment of the present and future indebtedness and/or liability of the Vendor (the “Secured Obligations”) to Tarion in regard to the Freehold Project, arising out of or otherwise relating to (a) this Agreement; (b) an agreement between the Vendor and Tarion with respect to the obligations of the Vendor (the “Vendor/Builder Agreement”); and/or (c) the ONHWP Act; and

G. After the provisions of Section 1(c)(iv) of Schedule A to the Addendum no longer apply and the contractual trust for the deposits no longer applies (the “Purchaser Trust Termination Date”), the parties have agreed that the sum of [xxx \$ per home] the “Tarion Security Amounts”) shall be maintained in trust for Tarion as security for the obligations of the Vendor in regard to the Freehold Project, arising out of or otherwise relating to (a) this Agreement; (b) an agreement between the Vendor and Tarion with respect to the Secured Obligations and from and after the Purchaser Trust Termination Date the term Deposits is deemed to be a reference to the amounts referred to in this paragraph G.

[37] The Deposit Trust Agreements contained the following terms:

4.1 The Vendor covenants and agrees with Tarion that:

a. all Deposit Funds held by the Escrow Agent shall be (a) held in trust for the Purchaser pursuant to the Addendum; and (b) subject to the trust referred to in (a), held in trust for Tarion and subject to Tarion’s security interest pursuant to this Agreement;

b. each of the Purchase Agreements shall provide and stipulate that all Deposits payable on account of the purchase price of any Home shall (prior to the Purchaser Trust Termination Date) be made payable to the Escrow Agent in trust, and as soon as the Vendor has received any funds representing Deposits, the Vendor shall within fifteen (15) business days after receipt of such funds deliver same to the Escrow Agent to be deposited in the Bank Account and held in accordance with the terms of the Addendum and this Agreement;

[38] Tarion submits that the provisions in the Addendum are enough to meet the requirements for an express trust for the benefit of Purchasers who have agreements with an early termination provision. Tarion's position is that the three certainties required for an express trust are satisfied: certainty of intention, certainty of objects, and certainty of subject matter.

[39] First, Tarion submits that the language in Schedule A to the Addendum sets out an intention to create a trust. Tarion submits that both the Purchasers and the applicable Stateview entity's intention that the deposits were to be held in trust was reduced to writing in the Addendum, which is required to be appended to the purchase agreement.

[40] In some cases, the Addendum was attached to the purchase agreement. Where the Addendum was attached to the agreement and there was an early termination provision that had not been met, I am satisfied that there was certainty of intention to create a trust regarding the deposit funds.

[41] I am also satisfied that there was certainty of intention where the Addendum was not attached to the purchase agreement. The Addendum is required under the Warranties Act to be attached. When the Stateview entities entered into the Builder/Vendor agreements with Tarion, the agreements specified that the vendor would ensure that the appropriate Addendum would be attached to each agreement of purchase and sale. As noted, the Addendum requires the vendor to hold the funds in trust until the applicable condition is met.

[42] Second, Tarion argues that the objects are certain. The Stateview vendor is to hold the money in trust for the respective Purchaser. It is clear who is the beneficiary of each trust.

[43] Finally, Tarion submits that the subject matter is certain. That is, until the applicable early termination condition is satisfied, all monies that are paid by the Purchaser to the Stateview vendor are to be held in trust by the Stateview vendor for the benefit of the Purchaser. The terms upon which the monies are held/released are further delineated in the Deposit Trust Agreement.

[44] The Receiver submits that there is no evidence whether some of the deposits have been released or whether the early termination condition has expired. This is a question that would have to be determined in respect of each trust. It does not impact whether an express trust was created.

[45] I am satisfied that there is certainty of subject matter. The monies paid by the Purchaser to the Stateview vendor are the subject matter of the trust. The applicable Stateview entity was required to hold that money in trust for the respective Purchaser in accordance with the trust terms.

[46] I am satisfied that there was an express trust created in respect of the agreements that contained the early termination provision.

[47] However, the deposit funds were not set aside and held in trust by the Stateview entities as required. Accordingly, where an express trust came into existence, and where the applicable termination condition has not been satisfied, and the trust funds have not been set aside and held in trust, the express trust terms would have been breached. Accordingly, below I discuss the requested remedy of constructive trust.

[48] While I agree with Tarion that there was an express trust created in respect of the agreements that contained the early termination provision, it is not a statutory deemed trust. A statutory trust is a “trust that legislation brings into existence by constituting certain property as trust property and a certain person as the trustee of that property:” *The Guarantee Company of North America v. Royal Bank of Canada*, 2019 ONCA 9, 144 O.R. (3d) 225 (“*Guarantee Company*”), at para. 18. For statutory deemed trusts, the legislation deems the trust into existence. As noted by the Supreme Court in *Canada v. Canada North Group Inc.*, 2021 SCC 30, 460 D.L.R. (4th) 309, at paras. 118 and 119, statutory deemed trusts are “unique legal vehicle[s]” and do “not have to fulfill the ordinary requirements of trust law.”

[49] The Warranties Act and Warranties Regulations do not create a statutory deemed trust. Instead, the Warranties Regulations require the parties to agree to create a trust and include deeming language if certain conditions are met. While the Schedule to the Addendum refers to the deposit amounts being deemed to be held in trust until the early termination provision is satisfied if the funds are not set aside in trust, this is not a statutory deemed trust. A statutory deemed trust is a creature of legislation and cannot be created by the parties agreeing to the terms of the Addendum. Although the Warranties Regulations require the Addendum, neither the statute nor the regulations deem a trust into existence or “impose a “statutory trust obligation”, namely, an obligation on a person to hold in trust certain property:” *Guarantee Company*, at para. 19.

Was there unjust enrichment in respect of the Purchasers without an express trust?

[50] As noted above, the agreements in respect of the Elm project contained an early termination provision. However, there was no evidence as to whether there were similar early termination provisions in the contracts for the other projects. Where the applicable agreement does not contain an early termination provision, an express trust would not have been created further to the terms of the contract/Addendum. Tarion asks the court to find that there was unjust enrichment in respect of those Purchasers who did not have an express trust.

[51] I am not satisfied that there was unjust enrichment in respect of the Purchasers who did not have an express trust.

[52] Tarion submits that the Stateview entities were unjustly enriched by their misappropriation of the deposits in respect of all Purchasers. Tarion’s position is that all Purchasers are entitled to a constructive trust remedy or good conscience trust remedy because of the unjust enrichment.

[53] For the court to find unjust enrichment, the court must be satisfied that there has been an enrichment, a corresponding deprivation, and no juristic reason to allow the enrichment or deprivation: *Becker v. Pettkus*, [1980] 2 SCR 834, at p. 835.

[54] The Stateview entities were clearly enriched with the deposits made by the Purchasers, and the Purchasers have been correspondingly deprived. The Purchasers provided the deposit monies to the Stateview entities in good faith toward the purchase of new build homes. These Purchasers no longer have their deposit funds and given the insolvency proceedings, are not going to have the home they contracted to purchase.

[55] The issue is whether there is a juristic reason to allow the enrichment or deprivation. The Supreme Court of Canada in *Kerr v. Baranow*, 2011 SCC 10, [2011] 1 S.C.R. 269 (“*Kerr*”) described this element of the test for unjust enrichment as follows, at paras. 40 and 41:

The third element of an unjust enrichment claim is that the benefit and corresponding detriment must have occurred without a juristic reason. To put it simply, this means that there is no reason in law or justice for the defendant’s retention of the benefit conferred by the plaintiff, making its retention unjust in the circumstances of the case.

Juristic reasons to deny recovery may be the intention to make a gift (referred to as a “donative intent”), a contract, or a disposition of law. The latter category generally includes circumstances where the enrichment of the defendant at the plaintiff’s expense is required by law, such as where a valid statute denies recovery. However, just as the Court has resisted a purely categorical approach to unjust enrichment claims, it has also refused to limit juristic reasons to a closed list. This third stage of the unjust enrichment analysis provides for due consideration of the autonomy of the parties, including factors such as “the legitimate expectation of the parties, the right of parties to order their affairs by contract”. [Citations omitted.]

[56] Tarion submits that there is no juristic reason justifying the enrichment or deprivation. Tarion points to the Purchase Agreements and submits that the Stateview entities were not permitted to take the benefit of the deposits paid by the Purchasers and give them nothing in return.

[57] The Receiver submits that contract breaches in insolvencies are different because every creditor before the court has a claim. In an insolvency, for a party to have an absence of juristic reason for the enrichment or deprivation, the Receiver argues that there must be more than a breach of contract. The Receiver argues that in the absence of express statutory or contractual trusts, the Stateview entities were free to use the deposits in the everyday operation of their business, which they did.

[58] The Receiver submits that the operation of the BIA is in and of itself a juristic reason that precludes the possibility of a constructive trust. The Alberta Court of Appeal in *Bassano Growers Ltd. v. Price Waterhouse Ltd.* (1997), 6 CBR (4th) 188 (“*Bassano Growers*”), citing the British Columbia Court of Appeal in *British Columbia v. National Bank of Canada* (1994), 30 C.B.R. (3d) 215, noted that the operation of the BIA can be a juristic reason precluding a constructive remedy, at para. 19:

Before a constructive trust can be imposed, unjust enrichment must be established, see *Becker v. Pettkus*, [1980] 2 S.C.R. 834. An unjust enrichment occurs where there has been an enrichment, a corresponding deprivation, and no juristic reason

to allow the enrichment and deprivation. The Applicants argue that Diamond S was unjustly enriched by virtue of the fact that the funds were retained by it upon bankruptcy. But this reasoning cannot hold in a bankruptcy situation where the assets of the bankrupt are being distributed pursuant to the BIA. The British Columbia Court of Appeal was asked to find a constructive trust in *National Bank*, supra where taxes collected under a deemed trust had not been segregated from the tax collector's own funds. The Court found at 238-40 that there could be no unjust enrichment in such cases. In bankruptcy situations, the creditors who benefit from the failure of a s. 67(1)(a) trust claim are not "enriched," but merely recover what they are owed, and any deprivation experienced by the unsuccessful trust claimants results from the bankruptcy. In other words, **the operation of the BIA is a juristic reason which precludes the possibilities of awarding a constructive trust remedy**, *National Bank*, supra at 238. [emphasis added]

[59] The Receiver further notes that, as highlighted in *Kerr*, one consideration for the court is the legitimate expectations of the parties. Here, the Purchasers entered into Pre-Purchase Agreements with clear subordination clauses. The expectation of the secured mortgagees would be that the Purchasers would not then assert a priority claim.

[60] I agree with the Receiver. I am not satisfied that there is an absence of juristic reason in this case. The Stateview entities were free to use the deposit funds in their business because there was no express trust or statutory trust over the deposit funds. The Stateview entities are now in bankruptcy and there are limited funds to go around. The BIA contemplates how creditors will be addressed in an insolvency. Similar to *Bassano Growers*, the fact that the deposit funds were retained by the Stateview entities upon bankruptcy does not give rise to an unjust enrichment. "[T]he operation of the BIA is a juristic reason which precludes the possibilities of awarding a constructive trust remedy."

[61] In addition, the Purchasers agreed to subordinate their interests to the secured mortgagees and construction financing claimants. This is yet another reason why there is not an absence of juristic reason in this case.

[62] Accordingly, the Purchasers have not established unjust enrichment.

[63] Given that there is no unjust enrichment, the Purchasers that do not have an express trust cannot seek the imposition of a constructive trust.

Imposition of a constructive trust

[64] I next consider whether the Purchasers would be entitled to a constructive trust over the deposit funds where an express trust arose and there was a breach of such express trust by Stateview. Because I have concluded that the Purchasers who do not have an express trust have not established unjust enrichment, there is no need to consider whether a constructive trust should be imposed for those Purchasers.

[65] Where there has been a breach of an express trust, remedies may include damages or compensation, or recovery of the property through tracing. In this case, it was submitted that tracing would not be possible because of the status of the finances of the Stateview entities.

[66] Tarion submits that the proper remedy for the Stateview entities' breach of an express trust in respect of certain Purchasers is to impress the proceeds from the sale of the real property with a constructive trust for the Purchasers' benefit.

[67] A constructive trust is an equitable remedy that the court has jurisdiction to impose. The constructive trust is a proprietary remedy. It is granted over specified property. Where a constructive trust is granted, the property is removed from the bankrupt's estate, which effectively reorganizes the BIA priorities: *306440 Ontario Ltd. v. 782127 Ontario Ltd. (Alrange Container Services)*, 2014 ONCA 548, 324 O.A.C. 21 ("*Alrange Container Services*"), at para. 24.

[68] Here, Tarion asks the court to declare that the Purchasers are entitled to a constructive trust in the proceeds of sale from the real property as a remedy for breach of trust. The imposition of a constructive trust would effectively remove the property subject to the trust from the estate of the Stateview entity.

[69] A constructive trust is available as a remedy where a party has been unjustly enriched to the prejudice of another party, or a party has obtained property by committing a wrongful act, such as a breach of a fiduciary obligation: *Soulos v. Korkontzilas*, [1997] 2 S.C.R. 217 ("*Soulos*"), at para. 36.

[70] A constructive trust arising from a wrongful act may be imposed by the court. As set out in *Soulos*, at para. 45, there are certain conditions that generally should be met before a constructive trust is ordered:

- a. The defendant must have been under an equitable obligation in relation to the activities giving rise to the assets in the defendant's hands;
- b. The assets in the defendant's hands must have resulted from agency activities of the defendant in breach of his or her equitable obligation to the plaintiff;
- c. The plaintiff must show a legitimate reason for seeking a proprietary remedy; and
- d. There must be no factors which would render the imposition of a constructive trust unjust in all the circumstances of the case.

[71] In considering the above in the context of an insolvency proceeding, courts in Canada have given significant weight to the fourth factor, specifically the impact on other creditors: *Caterpillar Financial Services v. 360networks corporation*, 2007 BCCA 14, 61 B.C.L.R. (4th) 334, at para. 66, *KPMG (Trustee in Bankruptcy of Ellingsen) v. Hallmark Ford Sales Ltd.*, 2000 BCCA 458, 190 D.L.R. (4th) 47, at para. 71, and *Creditfinance Securities Limited v. DSLC Capital Corp.*, 2011 ONCA 160, 277 O.A.C. 377 ("*Creditfinance*"), at para. 44. If a constructive trust is ordered in respect of a bankrupt, there is an obvious impact on the other creditors of the bankrupt's estate. Accordingly, the use of a constructive trust as a remedy in insolvency proceedings is used "only in the most extraordinary cases" and the test to show that there is a "constructive trust in a bankruptcy setting is high." *Creditfinance*, at paras. 32 and 33.

[72] In the instant case, there will likely not be enough funds for the secured creditors. Accordingly, any remedial constructive trust awarded by this court would upset the priority scheme under the BIA and effectively take funds from the secured creditors to pay certain unsecured creditors.

[73] In *Ascent Ltd. (Re)*, [2006] 18 C.B.R. (5th) 269 (ON SC) (“*Ascent*”), this court imposed a constructive trust in an insolvency proceeding. However, in that case the court had made an order that *Ascent* set aside \$24,374 and hold it in trust for a certain creditor pending certain events. *Ascent* did not set aside and hold the funds in trust as had been ordered. Accordingly, when *Ascent* was assigned into bankruptcy, the affected creditor argued that the proper remedy was a declaration of constructive trust over *Ascent*’s assets sufficient to provide the creditor with the \$24,374 that had been ordered by the court to be held in trust. The court found that there was unjust enrichment. In the court’s analysis of whether there was juristic reason, the court emphasized that there was an intervening Court Order requiring the funds to be set aside and held in trust. The court stated, at para. 15, that the failure to comply with the Court Order was the source of the unjust enrichment. In determining that a constructive trust was an appropriate remedy, the court also referred to the failure to comply with the Court Order, and stated, at para. 17:

It is also important to consider that imposition of a remedial constructive trust will take out of the hands of the Estate and the creditors the sum in dispute, and turn it over, in its entirety, to Cafo. This will clearly be a disruption of the scheme laid out in the BIA. This was the position of the Trustee at the hearing. I have considered this, but I have also considered *Brown* and the cases cited therein. I am satisfied that it is, in certain cases, appropriate to do injustice to the BIA in order to do justice to commercial morality. After all, the cases are too numerous to cite wherein commercial morality is considered in insolvency settings. It is the clear role of the Bankruptcy Court to act as the arbiter of commercial morality, and I find no offence in equity intervening, even at the expense of the formulaic aspects of the BIA scheme of distribution. It is simply not right for *Ascent* and its creditors to benefit from *Ascent*’s failure to obey the Hoy Order, and then come to this Court to seek to retain such an unjust enrichment. [Emphasis added.]

[74] Unlike *Ascent* there was no court order in the instant case requiring the Stateview entities to hold the deposit funds in trust. There was an express trust, and the Stateview entities, in their capacity as trustee, failed to adhere to the terms of the trust.

[75] Further, a constructive trust, which is not otherwise available, cannot be imposed by the court for the purpose of altering the priority scheme under the BIA: *Barnabe v. Touhey*, [1995] 26 O.R. (3d) 477 (C.A.).

[76] For a court to order a constructive trust remedy in a bankruptcy case, there must be a close and causal connection between the property over which the party seeks the constructive trust and the misappropriated trust property. The Court of Appeal in *Alrange Container Services*, stated at paras. 26 and 27:

The very nature of the constructive trust remedy demands a close link between the property over which the constructive trust is sought and the improper benefit

bestowed on the defendant or the corresponding detriment suffered by the plaintiff. Absent that close and direct connection, I see no basis, regardless of the nature of the restitutionary claim, for granting a remedy that gives the plaintiff important property-related rights over specific property. A constructive trust remedy only makes sense where the property that becomes the subject of the trust is closely connected to the loss suffered by the plaintiff and/or the benefit gained by the defendant. [...]

Professor Paciocco goes on to argue that the requirement of a close connection between the property over which the trust is sought and the product of the unjust enrichment is particularly strong in the commercial context. He observes, at p. 333:

In the commercial contest where there should be a hesitance to award proprietary relief, a purer tracing process is justifiable. This approach accurately describes the prevailing trend in Canadian case law.

[77] Tarion acknowledges that a close causal connection to the property is required. Tarion cited *British Columbia Securities Commission v. Bossteam E-Commerce Inc.*, 2017 BCSC 787 (“*Bossteam*”) as support for their position that establishing a close causal connection does not necessarily require forensic tracing. *Bossteam* involved an award of a constructive trust for fraud, and this award meant that defrauded investors benefitting from the trust were given priority over other creditors. This award was granted notwithstanding the fact that there was no tracing because the court found evidence of a close causal connection between the property in the bank account and the investor’s money: *Bossteam*, at para. 36.

[78] Tarion submits that there is a close causal connection between the deposit monies and the proceeds of sale from the real property. Tarion points to Mr. Pollack’s affidavit where he stated that certain monies funded from KingSett, the High Crown Real Property first mortgagee, and Purchaser deposits were for the purpose of paying development charges and cash in lieu of parkland dedication in connection with the High Crown Real Property. However, Mr. Pollack further stated that approximately half of those funds were inappropriately diverted for other purposes. The Receiver submits that Tarion has not provided any material evidence as to how the Purchaser deposits were used to improve or acquire the real property. The Receiver further notes that Tarion’s assertion is contradicted by Tarion’s other allegation that the deposits were misused in ways that were unconnected to the real property projects.

[79] I am not satisfied that Tarion has established a close causal connection between the deposits and the proceeds from the sale of the real property such that a proprietary remedy is appropriate in the circumstances.

[80] In addition, I am not satisfied that “extraordinary circumstances” exist in this case such that a constructive trust ought to be ordered. As noted, a remedial constructive trust would upset the BIA priority scheme. Here we have a situation where, on the one hand, if the Stateview entities had not breached the trusts, the creditors would not have had access to the deposits. However, on the other hand, had the Stateview entities not breached the trusts, the Stateview entities may have

appeared less financially secure, and the creditors may not have extended credit or additional credit to the Stateview entities.

[81] In my view the fact that the Purchasers agreed to the Subordination Clause in the Pre-Sale Purchase Agreements is also a factor weighing against the ordering of this remedy.

[82] As noted above, the express trusts are individual trusts that arose between each individual Purchaser and the respective Stateview entity. There was not evidence before the court on each trust relationship. Accordingly, I am not foreclosing the possibility of the court in an individual case determining that a constructive trust remedy could be appropriate in the specific circumstances.

Disposition

[83] Tarion's motion is dismissed.



J. STEELE J.

Date of Release: December 22, 2023

Appendix “C”



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

(Court Seal)

DHARMI MEHTA

Plaintiff

and

STATEVIEW HOMES (BEA TOWNS) INC., STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (NAO TOWNS) INC., STATEVIEW HOMES (NAO TOWNS II) INC., STATEVIEW HOMES (ELM&CO) INC., HIGHVIEW BUILDING CORP INC., STATEVIEW HOMES (ON THE MARK) INC., DANIEL CICCONE, CARLO TAURASI, DINO TAURASI, MELISSA TAURASI, NELDA TAURASI, STEPHANIE LYNN CONSOLE, JANE DOE, JOHN DOE, ABC INC. and XYZ INC.

Defendants

STATEMENT OF CLAIM

Proceeding under the *Class Proceedings Act, 1992*

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

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If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 8th Floor
Toronto ON M5G 1R7

TO: Stateview Homes (BEA Towns) Inc.
AND TO: Stateview Homes (Minu Towns) Inc.
AND TO: Stateview Homes (Nao Towns) Inc.
AND TO: Stateview Homes (Nao Towns II) Inc.
AND TO: Stateview Homes (Elm&Co) Inc.
AND TO: Highview Building Corp Inc.
AND TO: Stateview Homes (On the Mark) Inc.
AND TO: Daniel Ciccone
AND TO: Carlo Taurasi

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AND TO: Dino Taurasi

AND TO: Melissa Taurasi

AND TO: Nelda Taurasi

AND TO: Stephanie Lynn Console

AND TO: Jane Doe

AND TO: John Doe

AND TO: ABC Inc.

AND TO: XYZ Inc.

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CLAIM

1. The Plaintiff, Dharmi Mehta (the “**Plaintiff**”), claims on behalf of herself and all members of the Proposed Class (defined below):

- (a) an order certifying this action as a class proceeding and appointing the Plaintiff as representative plaintiff of the Proposed Class;
- (b) a declaration that members of the Proposed Class are the beneficial owners of the Deposit Funds (defined below) and products derived from them under:
 - (i) a statutory trust pursuant to s. 78(1)(3) and/or s. 81 of the *Condominium Act, 1998*, S.O. 1998, c. 19 (the “**Condominium Act**”); and/or
 - (ii) a resulting trust and/or constructive trust in accordance with the *Condominium Act*, common law and principles of equity;
- (c) a court-ordered charge and/or equitable lien on the property of the Defendants;
 - (i) as against the corporate Defendants, a declaration that the charge and/or equitable lien in respect of the trust funds rank:
 - (1) immediately behind the Receiver’s Charge, the Receiver’s Borrowings Charge (each, as defined in the Receivership Orders) and the charges set out in 14.06(7), 81.4(4) and 81.6(2) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**Super-priority Charges**”), and ahead of the claims of all other creditors;

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- (2) in the alternative, immediately behind each of the Super-priority Charges and the secured claims of registered mortgagees and ahead of the claims of all other creditors; and
 - (3) in the further alternative, in other priority to the claims of ordinary unsecured creditors;
- (d) a certificate of pending litigation (“CPL”) registered on the real property of the individual Defendants located at 48 Puccini Drive, Richmond Hill, Ontario, Canada L4E 2Y6 and 48a Puccini Drive, Richmond Hill, Ontario, Canada L4E 2Y6, with the following legal description: Part L5 25 PL M807, Part 2, 65R-37960;
 - (e) a declaration that the corporate Defendants, or any of them, owed fiduciary duties to the Proposed Class in respect of the Deposit Funds;
 - (f) a declaration that the corporate Defendants, or any of them, breached their fiduciary duties to the Proposed Class;
 - (g) a declaration that all or some of the individual defendants, Carlo Taurasi, Dino Taurasi, Daniel Ciccone, Melissa Taurasi, Nelda Taurasi, Stephanie Lynn Console and persons unknown, knowingly assisted the corporate Defendants in breaching their fiduciary duties to the Proposed Class;
 - (h) a declaration that all or some of the individual defendants, Carlo Taurasi, Dino Taurasi, Daniel Ciccone, Melissa Taurasi, Nelda Taurasi, Stephanie Lynn Console

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and persons unknown, knowingly received property obtained through breaches of trust obligations to the Proposed Class;

- (i) a tracing remedy in respect of the Deposit Funds, and any products derived from same, for the benefit of the Proposed Class;
- (j) as against the corporate Defendants, \$229,500,000 in damages for breach of contract;
- (k) a declaration that members of the Proposed Class are “complainants” under s. 245 of the *Business Corporations Act*, R.S.O. 1990, C. B. 16 (the “OBCA”);
- (l) a declaration that the Proposed Class was oppressed by the corporate Defendants under the OBCA;
- (m) a declaration that the directors and officers of the corporate Defendants, Carlo Taurasi, Dino Taurasi and Daniel Ciccone, are personally liable for the oppressive conduct of the corporate Defendants;
- (n) compensation pursuant s. 248(3)(j) of the OBCA in the amount of \$77,322,000;
- (o) in the alternative, damages for negligence, fraudulent and/or negligent misrepresentation, unjust enrichment, knowing assistance in breach of fiduciary duty and/or knowing receipt of trust property for \$77,322,000;
- (p) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

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- (q) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (r) the costs of this proceeding, plus all applicable taxes; and
- (s) such further and other relief as this Honourable Court may deem just.

I. PARTIES

2. The Plaintiff is an individual ordinarily resident in Toronto, Ontario. On January 15, 2021, the Plaintiff, as purchaser, entered into an Agreement of Purchase and Sale with the Defendant, Highview Building Corp Inc. ("**Highview**"), as vendor, for the sale of a pre-construction residential unit located at 99 Nashville Road, Kleinberg, Ontario.

3. The Defendant, Highview, is a corporation incorporated pursuant to the laws of Ontario. Highview is a single-purpose real estate development company that owns the real property located at 88 Nashville Road and 99 Nashville Road, Kleinberg, Ontario. On May 2, 2023, KSV Advisory Inc. (the "**Receiver**") was appointed court-ordered receiver over all of the assets, undertakings and properties of Highview, pursuant to s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**").

4. The Defendant, Stateview Homes (BEA Towns) Inc. ("**Bea Towns**"), is a corporation incorporated pursuant to the laws of Ontario. Bea Towns is a single-purpose real estate development company that owns the real property located at 189 Summerset Drive, Barrie,

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Ontario. On May 2, 2023, the Receiver was appointed court-ordered receiver over all of the assets, undertakings and properties of Bea Towns, pursuant to s. 243(1) of the BIA and s. 101 of the CJA.

5. The Defendant, Stateview Homes (Minu Towns) Inc. ("**Minu Towns**"), is a corporation incorporated pursuant to the laws of Ontario. Minu Towns is a single-purpose real estate development company that owns the real property located at 9940 Ninth Line, Markham, Ontario. On May 2, 2023, the Receiver was appointed court-ordered receiver over all of the assets, undertakings and properties of Minu Towns, pursuant to s. 243(1) of the BIA and s. 101 of the CJA.

6. The Defendant, Stateview Homes (Nao Towns) Inc. ("**Nao Towns**"), is a corporation incorporated pursuant to the laws of Ontario. Nao Towns is a single-purpose real estate development company that owns the real property located 5112, 5122, 5248 14th Avenue, Markham, Ontario. On May 2, 2023, the Receiver was appointed court-ordered receiver over all of the assets, undertakings and properties of Nao Towns, pursuant to s. 243(1) of the BIA and s. 101 of the CJA.

7. The Defendant, Stateview Homes (Nao Towns II) Inc. ("**Nao Towns II**"), is a corporation incorporated pursuant to the laws of Ontario. Nao Towns II is a single-purpose real estate development company that owns the real property located 7810, 7822, 7834, 7846 McCowan Road, Markham, Ontario. On May 2, 2023, the Receiver was appointed court-ordered receiver over all of the assets, undertakings and properties of Nao Towns II, pursuant to s. 243(1) of the BIA and s. 101 of the CJA.

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8. The Defendant, Stateview Homes (High Crown Estates) Inc. ("**High Crown**"), is a corporation incorporated pursuant to the laws of Ontario. High Crown is a single-purpose real estate development company that owns the real property located at 13151 – 13161 Keele Street, King City, Ontario. On May 2, 2023, the Receiver was appointed court-ordered receiver over all of the assets, undertakings and properties of High Crown, pursuant to s. 243(1) of the BIA and s. 101 of the CJA.

9. The Defendant, Stateview Homes (On the Mark) Inc. ("**On the Mark**"), is a corporation incorporated pursuant to the laws of Ontario. On the Mark is a single-purpose real estate development company that owns the real property located at 16th Avenue and Woodbine Avenue, Markham, Ontario. On May 2, 2023, the Receiver was appointed court-ordered receiver over all of the assets, undertakings and properties of On the Mark pursuant to s. 243(1) of the BIA and s. 101 of the CJA. On September 14, 2023, On the Mark was assigned into bankruptcy under the BIA, with the Receiver appointed its trustee.

10. The Defendant, Stateview Homes (Elm&Co) Inc. ("**Elm**"), is a corporation incorporated pursuant to the laws of Ontario. Elm is a single-purpose real estate development company that owns the real property located at 12942 York Durham Line, Stouffville, Ontario. On May 18, 2023, the Receiver was appointed court-ordered receiver over all of the assets, undertakings and properties of Elm, pursuant to s. 243(1) of the BIA and s. 101 of the CJA.

11. The Defendant, Carlo Taurasi ("**Carlo**"), is a director, officer and principal of Highview, Bea Towns, Minu Towns, Nao Towns, Nao Towns II, High Crown, On the Mark and Elm (collectively, hereinafter, the "**Stateview Defendants**").

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12. The Defendant, Dino Taurasi (“**Dino**”), is a director, officer and principal of the Stateview Defendants.

13. The Defendant, Daniel Ciccone (“**Daniel**”), is a director, officer and principal of the Stateview Defendants.

14. The Defendant, Melissa Taurasi (“**Melissa**”) is an individual that ordinarily resides in Ontario. Melissa is the spouse of Carlo.

15. The Defendant, Nelda Taurasi (“**Nelda**”) is an individual that ordinarily resides in Ontario. Nelda is the spouse of Dino.

16. The Defendant, Stephanie Lynn Console (“**Stephanie**”) is an individual that ordinarily resides in Ontario. At the material times, Stephanie was the spouse of Daniel.

17. ABC Inc., XYZ Inc., John Doe and Jane Doe are pseudonyms for corporations and individuals unknown that knowingly received proceeds from the Deposit Funds (defined below) and/or knowingly assisted the Stateview Defendants in breaching their fiduciary duties to the Proposed Class.

18. The Plaintiff seeks to represent the following class (the “**Proposed Class**”):

All persons who entered into Agreements of Purchase and Sale (the “**Purchase Agreements**”) with one or more of the Stateview Defendants for pre-construction residential units and/or an undivided share in the common elements of a common elements condominium corporation and paid deposits to one or more of the Stateview Defendants in

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furtherance of their Purchase Agreements. There are approximately 765 members of the Proposed Class.

II. FACTS

a. The Stateview Defendants

19. The Stateview Defendants are a collection of single-purpose real estate development companies in the business of constructing residential units (the “**Projects**”). At all material times, Carlo, Dino and Daniel were directors, officers and principals of each of the Stateview Defendants, and were directly involved in each of their day-to-day activities. In particular, Carlo, Dino and Daniel participated in the negotiation of the Purchase Agreements and every aspect of the Projects.

20. The Projects were organized as common element condominiums (“**CEC**” or “**CECs**”). Under a CEC model, individuals hold freehold titles to specific land parcels which are linked to an undivided common interest in the CEC. This ownership structure combines the individual land ownership with shared interest in the common elements.

21. Beginning no later than January 15, 2021, the Stateview Defendants started entering into pre-construction Purchase Agreements with the Proposed Class. The Purchase Agreements are standardized, or substantially similar, across all the Projects.

22. Pursuant to the Purchase Agreements, the Stateview Defendants were contractually required to incorporate a corporation under the Condominium Act that would serve as the Common Elements Condominium Corporation (“**CEC Corporation**”). The Stateview Defendants were

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further obligated to hold in trust any monies they collected from the Proposed Class on behalf of the yet-to-be incorporated CEC Corporations.

23. As part of the Purchase Agreements, the Proposed Class paid deposits to the Stateview Defendants (the “**Deposit Funds**”). According to the First Report of the Receiver, dated May 30, 2023 (the “**First Report**”), the Proposed Class paid deposits to the Stateview Defendants, totalling at least \$77,322,000. These amounts are broken down as follows:

Project	(unaudited)	
	# of Homebuyers	Deposits (\$000s)
Minu	147	19,208
Nao Phase I	96	7,680
High Crown	47	4,933
On the Mark ¹	32	4,218
Nao Phase II	76	7,617
Highview	4	None
BEA	218	17,440
Elm	145	16,076
Total	765	77,172

24. None of the Deposits Funds were held in trust by the Stateview Defendants. As of the date of this pleading, none of the Deposit Funds have been paid back to members of the Proposed Class.

25. The Receiver erroneously states that Highview received zero dollars in deposits. The Plaintiff personally paid a \$150,000 deposit to Highview through three separate cheques dated January 14, 2021, March 30, 2021, and May 30, 2021, in accordance with the Purchase Agreement. Highview’s books should specify that it received at least \$150,000 in deposits from the Proposed Class.

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b. Financial Troubles, the Cheque-Kiting Fraud and Subsequent Insolvency of the Stateview Defendants

26. Shortly after the execution of the Purchase Agreements and receipt of the Deposit Funds, the Stateview Defendants began experiencing serious financial difficulties and liquidity shortages. These financial woes emerged before construction of many of the Projects had commenced, notwithstanding that the Stateview Defendants were in receipt of at least \$77,322,000 in deposits and \$349,945,000 in various types of credit.

27. Due to the early onset of these financial challenges, the Stateview Defendants pursued illicit strategies to secure extra liquidity. One such strategy involved granting unauthorized mortgages on their real property. The Stateview Defendants proceeded with these unauthorized mortgages despite knowing that same would be in breach of their contractual obligations to existing creditors. Examples include, but are not limited to:

- (a) On December 16, 2022, Elm granted an unauthorized \$20,850,000 mortgage to Bergo Investment Limited, MCO Management Inc., and Tony Karamitsos;
- (b) On December 16, 2022, Bea Towns granted an unauthorized \$20,850,000 mortgage to Bergo Investment Limited, MCO Management Inc., and Tony Karamitsos;
- (c) On December 22, 2022, Highview granted an unauthorized \$5,300,000 mortgage to MCO Management Inc; and
- (d) On April 18, 2023, Highview granted an unauthorized \$1,945,000 mortgage to 2515792 Ontario Inc.

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28. In addition, between April 2022 and March 2023, the Defendants in this action were involved in a cheque-kiting scheme that defrauded The Toronto-Dominion Bank (“TD”) of over \$37 million.

29. On March 24, 2023, TD commenced an action against the Stateview Defendants, Carlo, Dino, Melissa, Nelda and certain related individuals and affiliated companies (collectively, the “TD Defendants”) to recover the \$37 million it was defrauded of as a result of the cheque-kiting scheme.

30. None of the TD Defendants filed a defence to the allegations. Rather, on March 31, 2023, some of the TD Defendants entered into a settlement agreement with TD (the “Settlement Agreement”). Daniel, Melissa and Nelda were not part of the Settlement Agreement.

31. As part of the Settlement Agreement, the settling defendants, which included the Stateview Defendants, Carlo and Dino, admitted their joint and several liability to TD arising from the cheque-kiting scheme. However, they contend that Daniel was responsible for the scheme.

32. The Settlement Agreement contemplated the full repayment of the \$37 million over a 3-month period, including a \$3.150 million “administration fee” upon the issuance of a court order implementing the agreement. As security, TD was granted, and subsequently registered, mortgages over the real property owned by some of the Stateview Defendants, including Bea Towns, Nao Towns II, Highview and Elm.

33. On April 4, 2023, the Court issued an order that, *inter alia*, approved the implementation of the Settlement Agreement.

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34. Due to their significant pre-existing financial challenges and liquidity constraints, which had been temporarily concealed by the illicit activities described above, TD's action and subsequent settlement of same practically guaranteed the inability of the Stateview Defendants to fulfill their then-looming payment obligations to existing creditors.

35. In April 2023, the Stateview Defendants failed to make scheduled payments to their creditors.

c. The Receivership Proceedings

36. In April and May 2023, following the missed payments, the discovery of the unauthorized mortgages and the involvement of the Stateview Defendants in the cheque-kiting fraud, certain senior secured creditors applied to appoint a receiver over the Stateview Defendants. The Court granted these requests on May 2, 2023, and May 18, 2023 (the "**Receivership Proceedings**").

37. Construction for most of the Projects had not yet begun by the time the Receivership Proceedings were commenced. As of May 30, 2023, the respective statuses of the Projects were as follows:

Project	Address	Status
Minu Towns	9940 Ninth Line, Markham	Raw land
Nao Towns	5112, 5122, 5248 14th Avenue, Markham	Raw land
Nao Towns II	7810, 7822, 7834, 7846, McCowan Road, Markham	Raw land
Nashville (Highview)	89, 99 Nashville Road, Kleinberg,	Raw land
BEA Towns	189 Summerset Drive, Barrie	Raw land
Elm	12942 York Durnam Line, Stouffville	Raw land
High Crown	13151 – 13161 Keele Street, King City	Under construction, approximately 30% complete
On the Mark	16 th Avenue and Woodbine Avenue, Markham	Under construction, approximately 90% complete

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38. According to the First Report, representatives of the Stateview Defendants have advised that all of the Deposit Funds, \$77,322,000 in total, have been depleted.

39. The Deposit Funds have been depleted notwithstanding that six of the eight Projects were not developed whatsoever, and a seventh Project, that of High Crown, was only 30% complete by the time of the Receivership Proceedings.

40. As of May 30, 2023, the Receiver has not conducted a tracing exercise in respect of the Deposit Funds.

41. The Receiver intends to divest the assets of the Stateview Defendants in accordance with various court-approved sale processes. It is anticipated that, with the sole exception of On the Mark, the Purchase Agreements will be disclaimed and the proceeds from these sales will be insufficient to fully reimburse the Proposed Class of their deposits, given their status as unsecured creditors within the Receivership Proceedings.

42. In the specific case of On the Mark, the Project was 90% complete by the time of the Receiver's appointment, with 38 out of 70 units closed in accordance with the Purchase Agreements. Out of the remaining 32 units, 30 of the homebuyers will have the option to close their Purchase Agreements by agreeing to pay an additional \$100,000 towards the purchase price alongside other "non-substantive" changes (as described by the Receiver). If these 30 homebuyers do not agree to the changes, their respective Purchase Agreements will be disclaimed, resulting in forfeiture of their deposits.

43. Melissa and Nelda are the two On the Mark Homebuyers who were not given the option to close their Purchase Agreement with On the Mark. On July 18, 2023, Melissa and Nelda filed a

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motion record opposing their exclusion from the option of closing their Purchase Agreements on the same terms as the other On the Mark homebuyers. Melissa and Nelda subsequently dropped their opposition to the transaction.

44. On September 14, 2023, the Court approved the sale of On the Mark's assets to 2077060 Ontario Inc. and the resulting disclamation of its Purchase Agreements with Melissa and Nelda. In addition, On the Mark was assigned into bankruptcy, with the Receiver appointed its trustee.

45. The Receivership Proceedings have uncovered instances of the Stateview Defendants illicitly and improperly redirecting funds from their designated purposes. This includes, but is not limited to, Minu Towns, Nao Towns, On the Mark, and High Crown diverting, for an unknown purpose, funds that were earmarked by their lenders for the payment of development charges to the City of Markham and Township of King.

d. The Plaintiff's Dealings with Highview

46. On January 15, 2021, the Plaintiff entered into a Purchase Agreement with Highview for a pre-construction unit located at 99 Nashville Road. The purchase price was \$1,548,990, with a \$150,000 deposit to be made in three installments of \$50,000, all of which were duly paid by the Plaintiff. The move-in date was scheduled for June 22, 2023.

47. The Purchase Agreement is replete with descriptions of the unit as a condominium and references to the Condominium Act, including, without limitation:

- (a) On page 1 of the Purchase Agreement, it specifies, "*[t]he Offer shall be irrevocable by the Purchaser until one minute before midnight on the tenth date after its date,*

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after which time if not accepted, this offer will be null and void and deposit returned to the Purchaser, without interest or deduction, except as required under the Condominium Act, S.O. 1998, C19, the regulations thereunder and any amendments thereto (the "Act");

- (b) On page 11, the definition of "Act" reads "*...the Condominium Act, S.O. 1998, C. 19, the regulations thereunder and any amendments thereto*";
- (c) On page 12, it is stated that the offer contained therein is "*conditional upon the Vendor obtaining...registration of a related common elements corporation under the Act*";
- (d) On page 29, the Schedule "CEC" contains several references to the "Condominium", "Condominium Documents", "Condominium Corporation" and "Creating Documents" (i.e., the declaration and description);
- (e) On page 29, the Schedule "CEC" stipulates the manner in which the Plaintiff is expected to make payments to the CEC for her share of the common elements expenses;
- (f) On page 29, the Schedule "CEC" specifies that "*interest on unpaid portion of the purchase price to be established pursuant to the occupancy provisions of the Act for a standard condominium*";
- (g) On page 31, the Schedule "R" contains several references to the "Condominium Corporation" and/or "York Region Common Elements Corporation No. ___"; and

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- (h) On page 32, the disclosures listed therein align with the disclosure requirements set out under the Condominium Act, including the Disclosure Statement, proposed Declaration for the condominium, Sections 73 and 74 of the Condominium Act, and a site plan delineating the common elements.

48. All the Purchase Agreements contain the same or substantially similar references to condominiums and the Condominium Act.

49. Highview never fulfilled its contractual obligation to incorporate a CEC Corporation.

50. Hidden at page 28 of the Purchase Agreement is a singular provision stipulating that a mere \$2 out of the \$1,548,990 purchase price was to be paid towards the common interest of the condominium, with none of the deposit monies allocated for this purpose. All the Purchase Agreements contain language that is the same or substantially similar to this clause.

e. The Deposit Funds were Subject to a Statutory Trust and/or Resulting Trust

51. The Condominium Act is consumer protection legislation intended to be interpreted generously in favour of purchasers of interests in condominiums. These purchasers are often negotiating from a significant informational and power disadvantage vis-à-vis condominium vendors, making them susceptible to exploitation. As such, the fundamental purpose of the Condominium Act is to safeguard purchasers and to establish a fair balance of rights between them and vendors. The imminent financial losses facing the Proposed Class offers a compelling illustration of this jeopardy.

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52. Section 81 of the Condominium Act stipulates that deposits paid towards the purchase price for condominium units are to be held in trust, including that which is paid towards pre-construction units. Deposits are expected to accumulate interest while held in trust by a trustee of a "prescribed class" under the Condominium Act. Money held in trust under the Condominium Act can only be released upon the purchaser receiving registrable title or a developer posting full security for the amounts to be withdrawn from trust.

53. In the specific case of CECs, the Condominium Act stipulates that deposits paid towards the common interest in the CEC are to be held in trust under s. 81, whereas the amounts paid towards the freehold aspect are not statutorily required to be held in trust.

54. As described above, the Purchase Agreement furtively stipulates that a mere \$2 of the \$1,548,990 purchase price is allocated to the common interest in the CEC, and that no portion of the deposit is designated for same (the "**Impugned Clause**").

55. There is no commercial justification to support the valuation of the common interest in the CEC as worth only 0.0000013% of the overall unit price.

56. The Impugned Clause, strategically inserted by the Stateview Defendants, Carlo, Dino and/or Daniel, lacks any credible commercial justification and was specifically intended to defeat the protections conferred by the Condominium Act, including the requirement that the Deposit Funds be held in trust.

57. The Impugned Clause is void, voidable, null or otherwise unenforceable in law for breaching public policy and being contrary to the essence of the Condominium Act as consumer protection legislation.

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58. The Deposit Funds are deemed to have been paid towards the common interest in the CECs and held in trust provision by operation of s. 81 of the Condominium Act.

59. The Stateview Defendants were under a corresponding statutory obligation to ensure the Deposits Funds were held in trust by a trustee of a prescribed class under the Condominium Act, leaving the Proposed Class as the beneficial owners of the Deposit Funds.

60. In addition, and/or in the alternative, s.78(1)(3) of the Condominium Act imputes an implied covenant into all purchase agreements that monies collected by a declarant (in this case, the Stateview Defendants) from purchasers (the Proposed Class) on behalf of the corporation (the CEC Corporation) are held in trust.

61. The Plaintiff's deposit, and the Deposit Funds generally, were collected by the Stateview Defendants on behalf of CEC Corporations that were yet to be incorporated at the time of the Purchase Agreements.

62. The Stateview Defendants never incorporated the CEC Corporations, except for On The Mark (registered as York Region Common Elements Condominium Corporation No. 1497), causing the statutory trust over the Deposit Funds prescribed by s.78(1)(3) to fail. As such, the Stateview Defendants are deemed to have held the Deposit Funds for the benefit of the Proposed Class by way of a resulting trust.

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III. LIABILITY OF THE DEFENDANTS

a. Stateview Defendants

i. Breach of statutory trust and/or resulting trust

63. The Stateview Defendants breached their statutory trust and/or resulting trust obligations by:

- (a) failing to ensure a trustee of a “prescribed class” under the Condominium Act held the Deposit Funds;
- (b) failing to meet the standard of care in the management of the Deposit Funds, including not ensuring interest was accrued;
- (c) failing to maintain accurate and up-to-date bookkeeping in respect of the Deposit Funds;
- (d) using the Deposit Funds to:
 - (i) finance real estate development activities in connection with the Projects; and/or
 - (ii) make improper or illegitimate purchases unrelated to the Projects; and/or
- (e) such further acts or omissions, the particulars of which are within the sole knowledge and control of the Defendants.

ii. Breach of fiduciary duty

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64. The Stateview Defendants were trustees of the Deposit Funds held under a statutory and/or resulting trust for the benefit of the Proposed Class.

65. The Stateview Defendants were in a special relationship with the Proposed Class and/or otherwise owed a fiduciary duty to them, namely that of trustee-beneficiary.

66. In addition, as developers of the Projects, the Stateview Defendants were in a fiduciary relationship with the Proposed Class in respect of the Projects, independent of the duties imposed by their role as trustees of a statutory trust and/or resulting trust. The bases for this secondary source of fiduciary duty includes, but is not limited to, the following:

- (a) the Stateview Defendants exercised a significant degree of power and control over the Proposed Class by virtue of being in complete control over the development of the Projects, the Deposit Funds, and the title of land to be conveyed to the Proposed Class upon the closing of the Purchase Agreements;
- (b) the power and discretion of the Stateview Defendants directly impacted the legal rights and practical rights of the Proposed Class, namely their interests in the units;
and
- (c) the Proposed Class was vulnerable to the discretion and power of the Stateview Defendants with no knowledge, influence or control over the status of the Projects or Deposit Funds.

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67. The Stateview Defendants breached their fiduciary duties by acting dishonestly, in bad faith and/or otherwise failing to prioritize the interests of the Proposed Class, including, without limitation:

- (a) failing to adhere to the statutory trust requirements imposed by the Condominium Act;
- (b) making unauthorized transactions with the Deposit Funds, such as:
 - (i) using amounts earmarked for a specific Project to finance the activities of other Projects; and
 - (ii) improper and illegitimate purchases unrelated to the Projects;
- (c) actively concealing and/or failing to disclose the details of these unauthorized transactions to the Proposed Class;
- (d) failing to ensure the unauthorized transactions were in the best interest of the Proposed Class;
- (e) engaging in self-dealing;
- (f) failing to address conflicts of interests;
- (g) failing to maintain adequate insurance for the Projects;
- (h) overleveraging the Projects and using the Deposit Funds to secure excessive loans that could not be repaid through the ordinary course of business;

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- (i) failing to disclose material information to the Proposed Class, including the financial challenges that threatened the viability of the Projects;
- (j) prioritizing the interests of other stakeholders in the Projects, including their own;
- (k) participating in the cheque-kiting fraud against TD; and
- (l) such further acts or omissions, the particulars of which are within the sole knowledge and control of the Defendants.

iii. Fraudulent and/or Negligent Misrepresentation

68. The Stateview Defendants were in a special relationship with the Proposed Class based upon their superior relative experience and expertise in real estate development and/or positions as trustees and fiduciaries.

69. The Stateview Defendants, intentionally or negligently made several material misrepresentations, which the Proposed Class relied upon to their detriment when entering into the Purchase Agreements and thereafter. Examples include:

- (a) that the CEC Corporations would be incorporated within a reasonable period of time after execution of the Purchase Agreements;
- (b) that construction would begin for the Projects within a reasonable period of time after execution of the Purchase Agreements;
- (c) that the units would be ready for occupancy based upon the contracted occupation date;

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- (d) the Proposed Class would be protected by the Condominium Act, including that the Deposit Funds would be held in trust; and
- (e) in the alternative to paragraph 69(d), that the Deposit Funds would go towards the individual Project class members were buying into, rather than be used to cover the costs for other Projects and/or misappropriated for purposes wholly unrelated to the Projects.

iv. Oppression

70. Under the Condominium Act and the Purchase Agreements, the Stateview Defendants were obligated to refund the Deposit Funds should the contracts be terminated or otherwise fail to close.

71. Pursuant to the Purchase Agreement, failure of the Stateview Defendants to incorporate a CEC Corporation results in the termination of the contract and return of the homebuyer deposits.

72. The Purchase Agreements have been terminated, or will soon be terminated as a result of the Receivership Proceedings. It is not expected that the Deposit Funds will be repaid in full to the Proposed Class by the conclusion of the Receivership Proceedings.

73. The Proposed Class has a claim against the Stateview Defendants for, at a minimum, the return of their Deposit Funds. As creditors of the Stateview Defendants, the Proposed Class has standing to claim oppression under s. 245 of the OBCA.

74. The reasonable expectations of the Proposed Class include, but are not limited to, the following:

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- (a) the Stateview Defendants would adhere to their legal obligations under the Condominium Act;
- (b) the Stateview Defendants would honour the understandings and expectations they created and encouraged in relation to the Deposit Funds
- (c) the Stateview Defendants would manage the development of the Projects in accordance with general commercial practice;
- (d) the Stateview Defendants would not deplete its reservoir of funds and other exigible assets for insufficient consideration;
- (e) the directors and officers of the Stateview Defendants would manage the affairs of the corporations in accordance with their legal obligations, namely, to act honestly and in good faith in the best interests of the corporation and to exercise the diligence expected of a reasonably prudent person; and
- (f) the Stateview Defendants would not be used as a vehicle for fraud.

75. The conduct of the Stateview Defendants leading up to the Receivership Proceedings was oppressive, unfairly prejudicial and/or unfairly disregarded the reasonable expectations of the Proposed Class. Such conduct includes, without limitation:

- (a) misappropriating the Deposit Funds, and funds extended by various lenders, for unauthorized transactions unrelated to the purposes for which they were granted, causing the failure of the Projects and subsequent insolvencies;

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- (b) Carlo, Dino and Daniel failing to discharge their directorial responsibilities by prioritizing their own personal interests above that of the Stateview Defendants, causing the Stateview Defendants to become insolvent;
- (c) Carlo, Dino and Daniel failing to exercise the diligence of a reasonably prudent person in their management of the Projects, causing the failure of same;
- (d) the Stateview Defendants failing to adhere to their statutory responsibilities under the Condominium Act;
- (e) failing to adhere to their contractual obligations to their creditors by secretly granting unauthorized charges to the properties owned by the Stateview Defendants; and
- (f) participating in the illegal and criminal cheque-kiting fraud against TD.

76. The misconduct described in the foregoing paragraph constitutes a marked departure from general commercial practice and could not have been foreseen by the Proposed Class.

v. Negligence

77. The Stateview Defendants owed a duty of care to the Proposed Class. The Stateview Defendants breached the standard of care through the mismanagement of the Projects and custodianship of the Deposit Funds, resulting in their insolvencies and the expected loss of the Deposit Funds.

vi. Breach of Contract

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78. The Purchase Agreements were for residential units that were expected to be developed and ready for occupation in accordance with the various move-in dates stipulated in the agreements.

79. The Purchase Agreements have been fundamentally breached by the Stateview Defendants as a result of the Receivership Proceedings, which were brought about as a direct consequence of their own misconduct.

80. Many of the Purchase Agreements are expected to be disclaimed by whoever ultimately purchases the properties of the Stateview Defendants and/or revised such that members of the Proposed Class will have to pay a premium to ensure their agreements are not disclaimed.

81. The Proposed Class is entitled to expectation damages that compensates individual class members for the rise in the value of the units had they been constructed and conveyed to the Proposed Class in accordance with the Purchase Agreements.

82. The aggregate amount of the increase in value for all of the units sold by the Stateview Defendants to members of the Proposed Class is currently estimated to be \$229,500,000.

b. Carlo, Dino and Daniel

i. Knowing assistance, knowing receipt and unjust enrichment

83. At all material times, Carlo, Dino and Daniel were the directors and officers of the Stateview Defendants. Carlo, Dino and Daniel had direct knowledge of the fiduciary duties owed by the Stateview Defendants to the Proposed Class.

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84. Carlo, Dino and Daniel, or any of them assisted in the Stateview Defendants' dishonest and/or fraudulent breach of their fiduciary duties by authorizing or otherwise causing the Stateview Defendants to carry out the conduct described in paragraph 67.

85. In addition, the Stateview Defendants advanced some or all of the Deposit Funds to the personal accounts of Carlo, Dino and Daniel, which they used for their own personal benefit. Carlo, Dino and Daniel had actual knowledge or constructive knowledge that such funds originated from a fraudulent misappropriation of trust property.

86. Carlo, Dino and Daniel were unjustly enriched by the fraudulent misappropriation of the Deposit Funds described in the foregoing paragraph. This resulted in a corresponding deprivation the Proposed Class. There is no juristic reason for their enrichment.

ii. Oppression

87. The oppressive conduct of the Stateview Defendants described in paragraph 75 is attributable to the action or inaction of Carlo, Dino and Daniel. Carlo, Dino and Daniel, or any of them, caused or permitted the Stateview Defendants to carry out conduct that was oppressive, unfairly prejudicial, or unfairly disregarded the reasonable expectations of the Proposed Class.

88. Carlo, Dino and Daniel, or any of them, acted in bad faith and received personal benefits from the oppressive conduct of the Stateview Defendants.

iii. Negligence

89. Carlo, Dino and Daniel directly oversaw the day-to-day activities of each of the Stateview Defendants, up to and including the collapse of the Projects and subsequent insolvencies.

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90. Carlo, Dino and Daniel were intimately involved with each aspect of the Projects and managed them in a manner that fell significantly below the expected standard of care and/or industry practice. Examples of such negligence include:

- (a) failing to ensure the Deposit Funds were held by a trustee of a “prescribed class” under the Condominium Act;
- (b) failing to incorporate the CEC Corporations in accordance with the Condominium Act and Purchase Agreements;
- (c) failing to maintain requisite insurance policies for the Projects;
- (d) overleveraging the Projects with debts they could not sustain; and
- (e) mismanaging and misusing the funds held by the Stateview Defendants.

91. The mismanagement of the Projects was so severe that, despite the Stateview Defendants having received millions of dollars from both the Proposed Class and various creditors, construction for six of the eight Projects had not yet started by the time of the Receivership Proceedings. Moreover, a seventh Project was only 30% complete.

92. The Stateview Defendants became insolvent as a direct consequence of the negligence of Carlo, Dino and Daniel in managing the Projects, resulting in the expected loss of the Deposit Funds.

93. In addition, in the specific case of Carlo and Dino, they assert that Daniel was the one responsible for the cheque-kiting fraud committed against TD. In other words, Carlo and Dino

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claim that they had no knowledge of the fact that the sole other director of the Stateview Defendants was using corporate accounts to perpetrate a \$37 million fraud spanning nearly a year.

94. Carlo and Dino are liable for negligence on this basis alone, as the cheque-kiting fraud caused or materially contributed to the insolvencies of the Stateview Defendants and expected loss of the Deposit Funds. Carlo and Dino had a duty to be aware of the business and finances of the companies and to prevent illicit activity by their fellow director. However, they failed to conduct an enquiry into the illicit and negligent conduct.

c. Melissa, Nelda and Stephanie

i. Knowing assistance, knowing receipt and unjust enrichment

95. At all material times, Melissa, Nelda and Stephanie were the spouses of Carlo, Dino, and Daniel, respectively, the directors and officers of the Stateview Defendants. As a result of this relationship, Melissa, Nelda and Stephanie had direct knowledge of the fiduciary duties owed by the Stateview Defendants to the Proposed Class.

96. Melissa, Nelda and Stephanie, or any of them, played an important role in facilitating the Stateview Defendants' dishonest and/or fraudulent violation of their fiduciary duties. Melissa, Nelda and Stephanie, or any of them, conspired with their spouses to strategically induce the Stateview Defendants to breach their fiduciary duties in the manner described in paragraph 67. This involvement encompassed permitting the Stateview Defendants to utilize their personal accounts and accounts linked to companies under their control to divert funds, including the Deposit Funds, away from the Stateview Defendants' accounts.

-33-

97. Melissa, Nelda and Stephanie, or any of them had actual knowledge or constructive knowledge that such advances came from a fraudulent misappropriation of trust property. Despite possessing actual or constructive knowledge of the source of the funds, Melissa, Nelda and Stephanie, or any of them, failed to conduct an inquiry into the origins of same.

98. Melissa, Nelda and Stephanie were unjustly enriched by the fraudulent misappropriation of the Deposit Funds. This resulted in a corresponding deprivation the Proposed Class. There is no juristic reason for their enrichment.

IV. CHARGING ORDER/EQUITABLE LIEN, CONSTRUCTIVE TRUST, CERTIFICATE OF PENDING LITIGATION AND TRACING REMEDY

99. The Proposed Class is entitled to a charge and/or equitable lien over all of the property of the Stateview Defendants to be ranked in accordance with the priorities listed in paragraph 1(c), as security for the Deposit Funds that were to be held in trust and/or a remedy for breach of trust, breach of fiduciary duty and/or oppression. In addition, or in the alternative, the Proposed Class is entitled to a constructive trust over the property of the Stateview Defendants as a remedy for breach of trust, breach of fiduciary duty and/or oppression.

100. The Proposed Class is entitled to a charge and/or equitable lien over all of the property of the individual and unknown Defendants as security for the Deposit Funds that were to be held in trust and/or a remedy as a remedy for knowing assistance, knowing receipt, unjust enrichment and/or oppression. In addition, or in the alternative, the Proposed Class is entitled to a constructive trust over the property of the individual and unknown Defendants as a remedy for knowing assistance, knowing receipt, unjust enrichment and/or oppression.

-34-

101. The charge and/or equitable lien over the property of the individual Defendants applies to the real property located at 48 Puccini Drive, Richmond Hill, Ontario, Canada L4E 2Y6 and 48a Puccini Drive, Richmond Hill, Ontario, Canada L4E 2Y6, with the following legal description: Part L5 25 PL M807, Part 2, 65R-37960. By operation of the claim for a charge and/or equitable lien, the Proposed Class has an interest in this real property, entitling it to a CPL until the claim is resolved.

102. Further, the Proposed Class is entitled to a tracing remedy in respect of the Deposit Funds, including into any derivative products obtained from them.

(Date of issue)

SOTOS LLP
180 Dundas Street West
Suite 1200
Toronto ON M5G 1Z8

David Sterns (LSO # 36274J)
dsterns@sotos.ca
Denna Pourmonazah Jalili (LSO # 84976N)
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Tel: 416-977-0007
Fax: 416-977-0717

Lawyers for the Plaintiff

DHARMI MEHTA
Plaintiff

-and-

STATEVIEW HOMES (BEA TOWNS) INC. et al.
Defendants

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

STATEMENT OF CLAIM

SOTOS LLP

180 Dundas Street West
Suite 1200
Toronto ON M5G 1Z8

David Sterns (LSO # 36274J)

dsterns@sotos.ca

Denna Pourmonazah Jalili (LSO # 84976N)

djalili@sotos.ca

Tel: 416-977-0007

Lawyers for the Plaintiff

Appendix “D”

9⁰⁸ [FX] -3-

Firm offer, no cooling period required by the Purchaser

105

~~LOT 120~~ Lot 121

POTL/TOWNHOUSE No. _____

STATEVIEW HOMES (NAO TOWNS) INC.

**AGREEMENT OF PURCHASE AND SALE
COMMON ELEMENT CONDOMINIUM**

9⁰⁸ [FX]
9⁰⁸

1.

(singularly or collectively referred to as the "Purchaser"), hereby agree(s) with STATEVIEW HOMES (NAO TOWNS) INC. (the "Vendor") to purchase the townhouse dwelling known as NO. ~~420121~~ (the "Dwelling") to be constructed on a freehold parcel of land (the "POTL" and with the Dwelling and the POTL collectively referred to as the "Property"), all as shown on Schedule "C" annexed hereto, with the POTL to be tied or attached to a common elements roadway condominium (the "Condominium"), to be developed and constructed on the Lands (as such term is defined), for the purchase price of

_____ DOLLARS in Canadian funds (the "Purchase Price") inclusive of HST (as hereinafter defined) but net of all applicable Rebates (as hereinafter defined) to be assigned and/or transferred and/ credited and/or paid to the Vendor, which Purchase Price shall be payable to the Vendor as follows:

9⁰⁸

a) The Purchaser shall pay the sum of ~~Twenty Thousand Dollars (\$20,000.00)~~ DOLLARS as a deposit upon the execution of this Agreement made payable to THE VENDOR;

[FX]

~~The Purchaser shall pay the further sum of Twenty Thousand Dollars (\$ 20,000) DOLLARS being equal to five percent of the Purchase Price as an additional deposit, by way of a post-dated cheque made payable to THE VENDOR on the 30th day after the date of execution of this Agreement by the Purchaser;~~

~~b) The Purchaser shall pay the further sum of Twenty Thousand Dollars (\$ 20,000) DOLLARS being equal to five percent of the Purchase Price as an additional deposit, by way of a post-dated cheque made payable to THE VENDOR, on the 60th day after the date of execution of this Agreement by the Purchaser;~~

~~c) The Purchaser shall pay the further sum of Twenty Thousand Dollars (\$ 20,000) DOLLARS being equal to five percent of the Purchase Price as an additional deposit, by way of a post-dated cheque made payable to THE VENDOR, on the 120th day after the date of execution of this Agreement by the Purchaser;~~

~~d) The Purchaser shall pay the further sum of Twenty Thousand Dollars (\$ 20,000) DOLLARS being equal to five percent of the Purchase Price as an additional deposit, by way of a post-dated cheque made payable to THE VENDOR, on the 150th day after the date of execution of this Agreement by the Purchaser;~~

f) The Purchaser shall pay the balance of the Purchase Price, by certified cheque and/or bank draft payable to the Vendor or to whomsoever it may further direct, on the Closing Date, with all adjustments as hereinafter provided.

2. The TARION Warranty Corporation's "Statement of Critical Dates", "Addendum to Agreement of Purchase and Sale", including the Appendix of Additional Early Termination Conditions", if any Schedule B, the adjustments and the Tarion Warranty Corporation's Warranty Information Sheet (collectively the "Addendum") are attached to and form part of this agreement. The transaction provided for in this agreement shall be completed on the applicable First Tentative Occupancy Date, Second Tentative Occupancy Date, Firm Occupancy Date or Outside Occupancy Date ("Closing", "Closing Date", "Date of Closing", "closing", "closing date" or "date of closing"), as the case may be determined in accordance with the provisions of the Addendum, notwithstanding any other term of this Agreement to the contrary. The Addendum as well as Schedules "A" (Features), "B" (Floor plans), "S" (Site Plan), and "D" (Occupancy Licence), together with any other schedule(s) hereto shall form part of this Purchase Agreement (collectively, the "Purchase Agreement" or "Agreement"). The Purchaser acknowledges that he/she has read this Agreement, including the Addendum, and agrees to be bound by the terms hereof.

3. All capitalized terms shall have the meanings given to them in this agreement. The Purchaser acknowledges and agrees that a reference plan describing the POTL shall be registered prior to closing and that the description of the Property set out on the transfer/deed of lands given to the Purchaser on closing shall be described in accordance with such reference plan, and the Purchaser agrees to accept such revised description in lieu of the one set out above. This agreement constitutes the entire agreement as between the parties.

CLOSING

4. Closing shall be the date on which the Vendor or the Owner (as hereinafter defined) shall transfer the title to the Property to the Purchaser, as amended pursuant to the terms and provisions this Agreement. Provided that in the event that the transaction is closed utilizing the Teraview Electronic Registration System ("TERS"), the term "delivery" or "delivered" with respect to a deed/transfer shall mean that an electronic deed/transfer of lands is capable of being tendered by the Vendor or Owner for registration, with all matters relating to the registration required to have been completed by the Vendor or its solicitors having been so completed.

REPRESENTATIONS OR WARRANTIES AND ENTIRE AGREEMENT

5. This offer, when accepted, shall constitute a binding agreement of purchase and sale subject to any statutory rights of rescission to the contrary. Time shall in all respects be of the essence of this Agreement and this Agreement shall not be

9⁰⁸ [FX]

amended except in writing. The Purchaser releases and absolves the Vendor of any obligation to perform or comply with any promises or representations as may have been made by any sales representative or in any sales brochure, unless the same has been reduced to writing herein. It is agreed and understood that there is no oral or written representation, warranty, collateral term or condition affecting this Agreement or the Property, or for which the Vendor or the Owner (or any agent or 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 specifically set out in this Agreement in writing.

IN WITNESS WHEREOF I/we have hereunto set my/our hand(s) this _____ day of _____, 2021


WITNESS: _____ PURCHASER:  _____ 
2/4/2021 12:23:12 PM EST (Date of Birth)

WITNESS: _____ PURCHASER: _____ / /
(Date of Birth)

The undersigned hereby accepts this agreement of purchase and sale and agrees with the Purchaser to comply with its covenants therein.

ACCEPTED THIS 2/6/2021 day of _____, 2021.

STATEVIEW HOMES (NAO TOWNS) INC.

 _____
Per: _____
A.S.O
I have authority to bind the Corporation

CONTACT SHEET

Notify your Vendor in writing of any changes to this information immediately following such changes.

Purchaser #1

[Redacted]

(Surname) _____ (Given Name(s)) _____

[Redacted]

Street _____ Apt. # (if appl.) _____

Toronto _____ Ontario _____

City Province Postal Code _____

() _____ () _____

Home Telephone Business Telephone Cell Number _____

[Redacted]

e-mail address _____

Purchaser #2

(Surname) _____ (Given Name(s)) _____

Street _____ Apt. # (if appl.) _____

City Province Postal Code _____

() _____ () _____

Home Telephone Business Telephone Cell Number _____

e-mail address _____

Purchaser #3

(Surname) _____ (Given Name(s)) _____

Street _____ Apt. # (if appl.) _____

City Province Postal Code _____

() _____ () _____

Home Telephone Business Telephone Cell Number _____

e-mail address _____

Purchaser #4

(Surname) _____ (Given Name(s)) _____



Street _____ Apt. # (if appl.) _____

City Province Postal Code _____

() _____ () _____

Home Telephone Business Telephone Cell Number _____

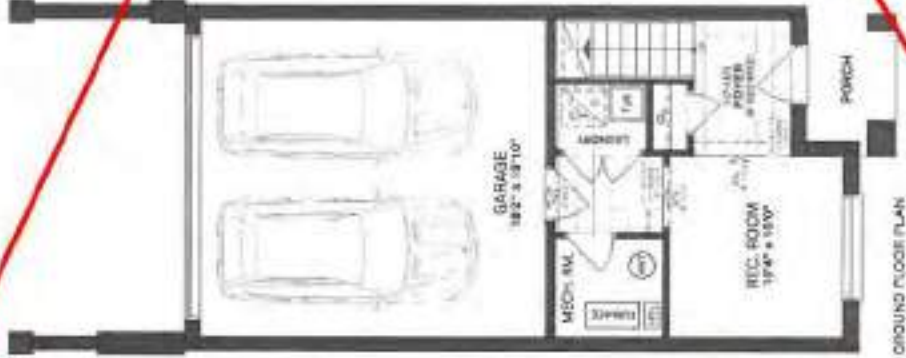
e-mail address _____

Vendor  Purchase 

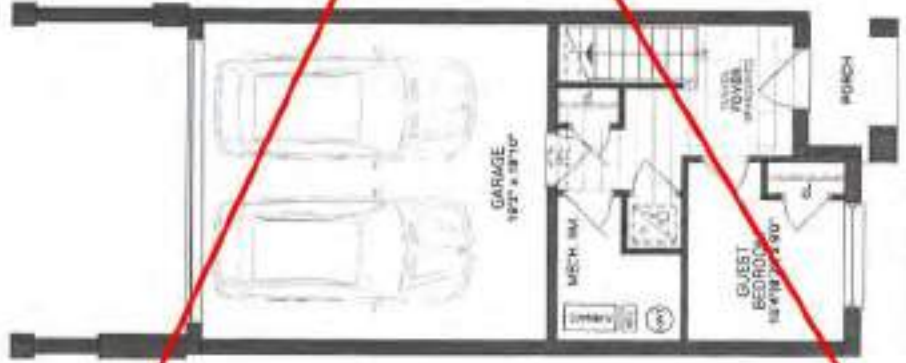


AQUILA

2,257 sq.ft. | Interior Unit



GROUND FLOOR PLAN



OPT. GROUND FLOOR PLAN



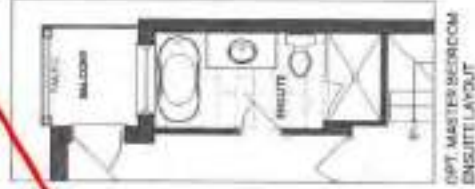
MAIN FLOOR PLAN



SECOND FLOOR PLAN



TERRACE FLOOR PLAN



OPT. MASTER BEDROOM ENSUITE LAYOUT

10	18	19	22	23	24	27	28	29	32	33	34	37	38	39	42	43	44	45	48	49	52	53	54	57	58	59	60
63	64	65	68	69	72	71																					

PURCHASER INITIALS:



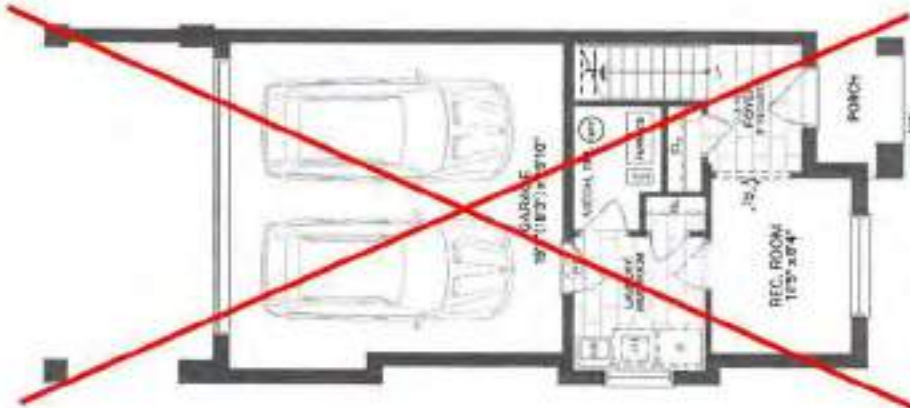
THE FLOOR PLANS, ELEVATIONS, DIMENSIONS, SPECIFICATIONS AND ARCHITECTURAL DETAILS SHOWN ARE PRE-CONSTRUCTION PLANS ONLY AND MAY BE CHANGED OR REVISED WITHOUT NOTICE INCLUDING, AS MAY BE NECESSARY BY ARCHITECTURAL CONTROLS AND THE CONSTRUCTION PROCESS. ALL DIMENSIONS ARE APPROXIMATE. ACTUAL USABLE FLOOR SPACE MAY VARY FROM THE STATED AREA. HOUSES MAY VARY AT ANY EXTERIOR ENTRANCE.



PHASE II
MULTI-FAMILY HOMES

DORADO
2,447 sq.ft. | Corner Unit

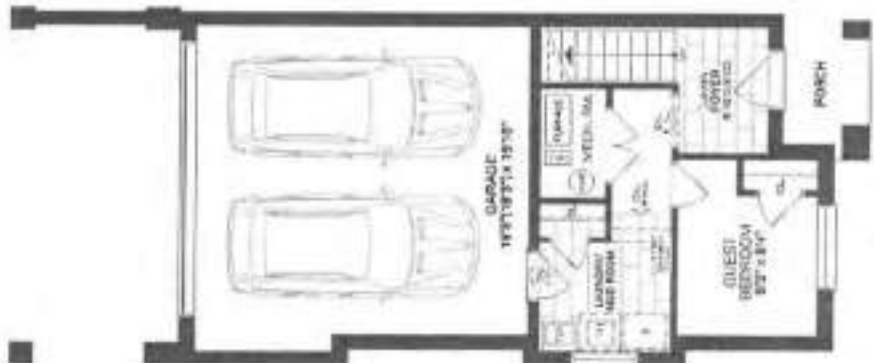
[FX]



GROUND FLOOR PLAN

[FX]

OPT. GROUND FLOOR PLAN



Optional 4th Bedroom Plan Selected

Lot 121 chosen

[FX]



FIRST FLOOR PLAN

[FX]



SECOND FLOOR PLAN

[G]



TERRACE FLOOR PLAN

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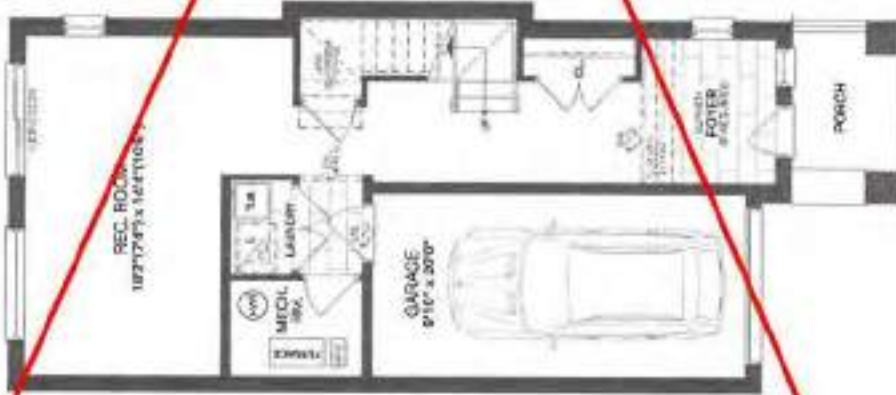
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115	120	125	130	135	140	145	150	155	160	165	170	175	180	185	190	195	200
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[FX]

NAO
PHASE II
HIGHLAND TOWNS

PLANS, DIMENSIONS, SPECIFICATIONS AND ARCHITECTURAL DETAILS SHOWN ARE PRE-CONSTRUCTION PLANS ONLY AND MAY BE CHANGED OR REVISED WITHOUT NOTICE. ALL DIMENSIONS ARE APPROXIMATE. ACTUAL USABLE FLOOR SPACE MAY VARY FROM THE STATED AREA. HOUSE MAY BE REFINISHED. STEPS MAY BE REQUIRED. STEPS MAY BE REQUIRED AT ANY EXTERIOR ENTRANCE. ILLUSTRATIONS ARE ARTIST'S CONCEPT ONLY. ESTIMATED RAILINGS TO BE INSTALLED ONLY AS REQUIRED BY GRADE. NOTWITHSTANDING ANY ILLUSTRATIONS OR PLANS, S.A.O.C. 103.2.001.



GROUND FLOOR PLAN



OPT. GROUND FLOOR PLAN



MAIN FLOOR PLAN



SECOND FLOOR PLAN

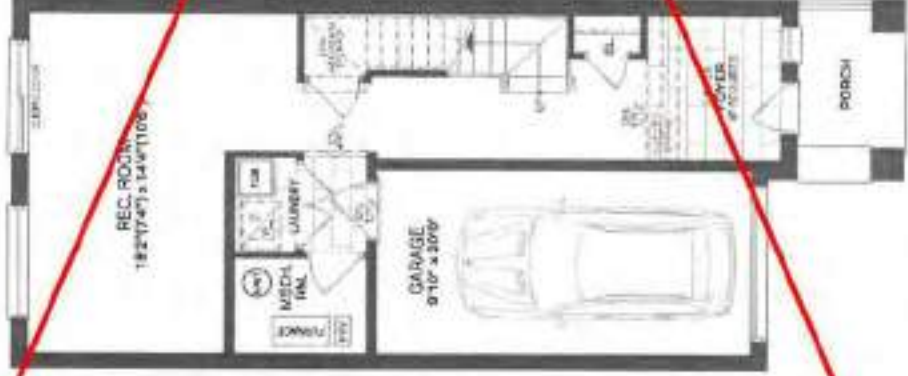
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PURCHASER
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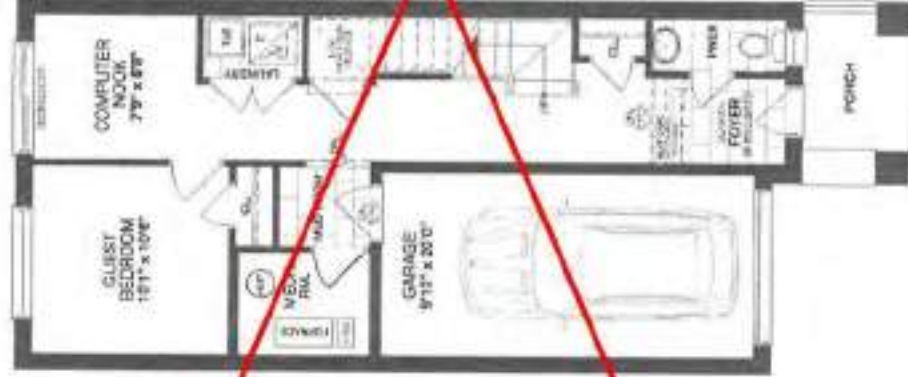
STATE VIEW
HOMES

Slowly Inspired

PAVO
2,412 sq.ft. | End Unit



GROUND FLOOR PLAN



OPT. GROUND FLOOR PLAN



MAIN FLOOR PLAN



SECOND FLOOR PLAN

102	103	104	105
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NAO
PHASE II
HOMES

PURCHASER
INITIALS:

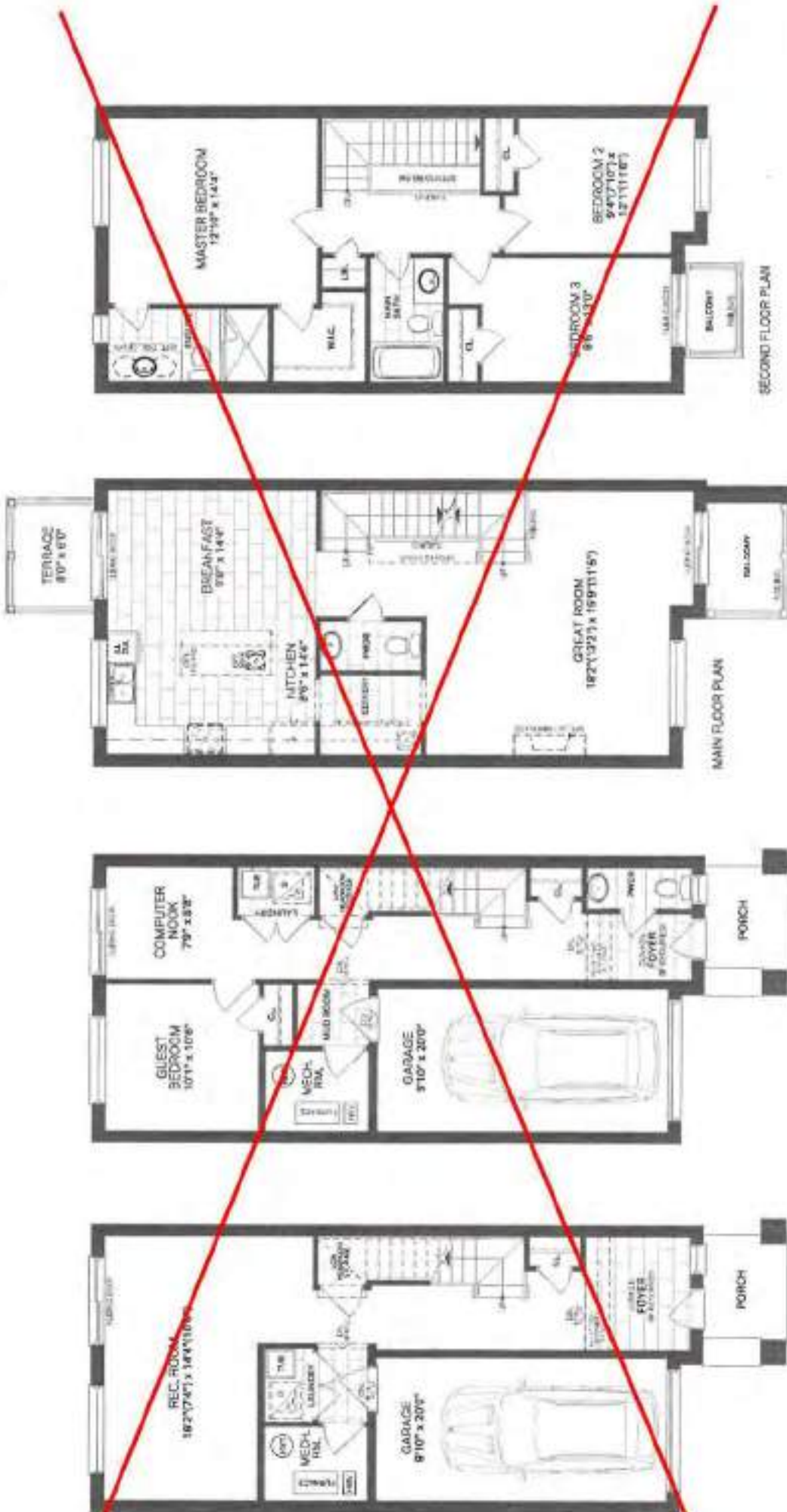


THIS FLOOR PLAN, DIMENSIONS, INDICATIONS AND ARCHITECTURAL DETAILS SHOW ARE THE CONSTRUCTION PLAN. DIMENSIONS AND WHAT IS CHANGED OR REVISED WITHOUT NOTICE INCLUDING AS BUILT. BE NECESSARY BY ARCHITECTURAL CONTROLS AND THE CONSTRUCTION PROCESS. ALL DIMENSIONS ARE APPROXIMATE. ACTUAL DIMENSIONS MAY VARY FROM THE STATED AREA. HOUSE MAY BE REVERSED. STEPS MAY VARY AT ANY EXTERIOR ENTRANCE. ILLUSTRATIONS ARE ARTIST'S CONCEPT ONLY. ENTRY OR BALCONY TO BE INSTALLED ONLY AS REQUIRED BY OWNER. NOT TO BE USED FOR PERMITS. (E.B.D.E. FEB 2022)

STATE VIEW
HOMES

Live It Inspired

ORION
2,343 sq.ft. | Interior Unit



PURCHASER
INITIALS:



18	19	100	101	104	105	106	107	108	11	12	13	14
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THE FLOOR PLANS, ELEVATIONS, DIMENSIONS, SPECIFICATIONS AND ARCHITECTURAL DETAILS SHOWN ARE PRE-CONSTRUCTION PLANS ONLY AND MAY BE CHANGED OR REVISED WITHOUT NOTICE INCLUDING, AS MAY BE NECESSARY BY ARCHITECTURAL CONTROL AND THE CONSTRUCTION PROCESS. ALL DIMENSIONS ARE APPROXIMATE. ACTUAL USABLE FLOOR SPACE MAY VARY FROM THE STATED AREA. HOUSES MAY BE REVERSED. STEPS MAY VARY AT ANY EXTERIOR ENTRANCE. ILLUSTRATIONS ARE ARTIST'S CONCEPT ONLY. EXTERIOR WALLINGS TO BE INSTALLED ONLY AS ACQUIRED BY GRADE. NOTWITHSTANDING ANY ILLUSTRATED DIMENSIONS, E.A.D.E. FEB. 2021.



STATE VIEW HOMES

DocuSign Envelope ID: BB2A4097-0646-45CA-8CED-83D431CD03B1

- 1 CAR TOWNS (20')
- 2 CAR TOWNS (25')
- SINGLE CAR TOWNS (20')
- SINGLE CAR TOWNS (25')
- PHASE



Lot 121 is circled in blue

SITE PLAN

N/AO

PHASE II
MARKHAM TOWNS

SCHEDULE "S"

PURCHASER INITIALS:



© 2014 N/AO. All rights reserved. This site plan is a preliminary design and is subject to change without notice. The information contained herein is for informational purposes only and does not constitute an offer of any real estate. The information contained herein is not to be used in any way without the express written consent of N/AO.



NAO TOWNS PHASE 2 FEATURES & FINISHES

FEATURES OF AN ENERGY STAR® QUALIFIED NEW HOME

- For economical heating, the home will be insulated in accordance with EnergyStar® guidelines, which exceed the current Ontario Building Code specifications including full height basement insulation, expanding foam insulation to all garage ceilings with finished areas above, and around all windows and doors
- EnergyStar® qualified windows/skylights and glass sliding/French doors to be Low 'E' argon gas filled, rated for "Zone 2" rating (as per plan/elevation/options). Maintenance - free structural vinyl thermopane basement windows (as per plan/elevations/options)
- 2" x 6" Exterior wall construction with R-22 + 5 insulation, R-60 in attic. Expanding foam insulation to be R-31 to all garage ceilings with finished areas above
- All bathrooms (with or without windows) have exhaust fan (EnergyStar® qualified) vented to the outside
- Forced air Natural Gas Condensing furnace, 96% ECM efficiency, with an ECM motor, power vented to the outside
- Heat Recovery Ventilation Unit (H.R.V.) simplified system
- EnergyStar® qualified condensing domestic hot water tank (instal on)
- All main trunk ducts, including basements for supply and return and joined joints to be taped, for added heating and cooling efficiency
- Centrally located electronic EnergyStar® qualified thermostat on main floor
- LED light bulbs where applicable to help conserve energy
- Extensive caulking for improved energy conservation and draft prevention
- The use of recycled material throughout the building process

PLEASING LANDSCAPING FEATURES

- Front, rear and side yards will be fully sodded creating a truly desirable and prestigious streetscape
- Relaxing outdoor lounge areas and private landscaped courtyard
- Visitor parking available
- Professionally landscaped Parkette and maintained grounds

STUNNING EXTERIOR FEATURES & STRUCTURAL COMPONENTS

Welcome to unexpected curb-appeal. With Modern-style roof lines and a blend of traditional/modern building materials reveal in beauty of your arrival.

- Each home exterior is comprised of a combination of all brick, stone, stucco, freeze board and/or precast accents with masonry detailing around windows and doors (as per plan/elevations/options)
- Quality fiberglass self-sealing high-grade asphalt shingles, with a 25-year manufacturer's warranty, accenting metal roof details. (as per plan/elevations/options)
- Durable, maintenance free, pre-finished aluminum soffits, fascia, eaves trough and downspouts, all colour coordinated
- Prominent insulated entry door with door hardware package including grip-set and deadbolt, featuring glass inserts to front entry door features (as per plan/elevations/options) with complementing granite door lifts to both front and rear doors for a custom touch
- Exterior aluminum railings for decorative applications, (where required by code). Actual railing detailing may vary from railings depicted on brochures (As per plan/elevations/options)
- Two exterior hose bibs are provided, one at rear (or side) and one in garage
- Sliding patio doors leading to rear (as per plan/elevations/options)
- Pre-finished roll-up metal insulated garage doors with decorative glazing and hardware
- Convenient direct access from garage to home includes an insulated EnergyStar® metal door complete with safety door closure with power bolt deadbolt shown on plans and model types only, and where grade permits only

GOURMET DREAM KITCHEN FEATURES

- Custom quality designed kitchen cabinets with choice of styles from vendor's standard samples. (As per plan/options)
- Space for dishwasher including rough-in plumbing and electrical
- Built in pantries and broom closets, breakfast counters / islands and bank of drawers. (As per plan/options)
- Luxurious granite kitchen countertops with your choice of colour from vendor's standard samples
- Colour coordinated kick plates to complement cabinets
- Stainless steel finish, under mount sink in kitchen with pull-out faucet.
- 6" Kitchen stove vent to be vented to outside

LUXURIOUS BATHROOM FEATURES

- Custom quality designed master ensuite cabinets with choice of styles from vendor's standard samples (As per plan/options)
- Luxurious granite countertops in master ensuite with your choice of colour from vendor's standard samples
- Single lever faucet(s) in all bathrooms
- White vanity with single lever faucet for all second floor washrooms
- White pedestal sink for all powder rooms
- High efficiency water saving white toilets in all bathrooms
- Deep acrylic soaker tubs. (As per plan/options)
- Wall tiles up to ceiling and mosaic floor tiles in all shower stalls
- Ensuite retreats with glass showers
- All bathroom tub & shower enclosures to receive "mold resistant drywall"
- Shut off valves to all bathroom sinks & toilets
- Privacy locks on all bathroom doors

LIGHTING & ELECTRICAL FEATURES

- 100 Amp electrical services with breakers
- Two (2) weatherproof exterior electrical outlets, one (1) each accessible at front and rear of home
- Ceiling mounted light fixture in all bathrooms including all powder rooms (as per vendor's samples)
- Automatic smoke detector(s) with strobe lighting to meet OBC building codes for home and family safety.
- All wiring in accordance with Ontario Hydro standards
- Electric door chime
- Decora light switches plugs and plates
- Carbon monoxide detectors
- Two (2) electrical outlets in garage, one (1) on wall and one (1) on ceiling
- Ground fault indicator receptacles, as per building code

EXQUISITE FLOORING COVERINGS

- Tile flooring - locations as per applicable model layouts
- Natural laminate flooring - locations as per applicable model layouts
- Luxurious broadloom with under pad in all bedrooms, Purchaser's choice of two colours from vendor's standard samples (as per plan/options)
- Sub-floor is glued, sanded, and screwed down before application of finished floors

LAUNDRY ROOM ACCENTS

- All upper floor laundry closets/rooms to include a floor drain. (As per plan/options)
- Convenient durable "no break" Polypropylene laundry tub with separate drain. (As per plan/options)
- Outside venting for dryer
- Hot and cold laundry taps for washer with heavy duty wiring for dryer

COMFORT, SAFETY, AND SECURITY

- High quality locks with dead bolts on all exterior swing door(s)
- Hinges and striker plates reinforced with extra-long screws
- Additional screws at patio door to help prevent lifting

HELPFUL ROUGH-INS FOR FUTURE CONNECTIVITY

- Three (3) cable television outlets (RG-6 Standard). Location to be determined by purchaser
- One (1) internet rough-in (CAT-5 Standard). Location to be determined by purchaser
- One (1) telephone outlet. Location to be determined by purchaser
- StateView Homes shall provide a personally scheduled appointment with our qualified Technical Contractor to explain and co-ordinate any additional Security/ Technology requirements requested
- Rough-in Central vacuum system to all finished floors with pipes dropped to garage as determined by StateView Homes
- Alarm Rough-in only
- Monitored security system available through StateView Homes supplier. With purchase of optional two-year security system, the buyer will receive a fully installed security system, which includes contacts on all opening windows and doors for "lookout" and "walkout" basement, one motion detector, one keypad, one siren and control panel with associated hardware. (See your Decor Representative for details)
- Municipal address plaques provided.
- Professionally home cleaning service prior to occupancy
- Dust cleaning at time of occupancy

BREATHTAKING INTERIOR LIVING SPACES

Step inside a well-built luxurious setting. Built with exceptional attention to detail. Special touches abound, to make everything feel just right.

- Soaring ten (10) ceilings on the Second floor with nine (9) on the Main and Third floor (all heights are approximate and subjected to site plan approval conditions, bulkheads and low headroom areas due to mechanical systems and ceiling dropped down areas as required). All heights are measured to the top of the floor joist and can be adjusted at the discretion of StateView Homes. Purchaser accepts the same
- Sunian or raised foyer, mud room, laundry room, garage entrance landing (where permitted or dictated by grade) (as per plan/options) Purchaser accepts the same
- Easy maintenance free smooth ceilings in kitchen, powder rooms, all bathrooms
- Spray textured ceilings with 4" smooth boarder throughout balance of home. Walk-in closets to be stippled only - no border
- White paint on all walls and white semi-gloss paint on doors and trim
- Elegant oak stairs (veneer risers and stringers), Oak square 1 5/8" railings to finished areas with warm natural finished oak handrails (as per plan/options) Where available, access to staircase to the basement level through a doorway, such stairs and handrails to be unfinished spruce painted in a colour selected by StateView Homes
- 4" baseboards throughout with doorstop to tile or oak flooring areas. 2 3/4" casing on all doors windows and flat airways throughout finished areas
- Quality finished interior knobs on all interior doors with complementing hinges
- 6" two-panel smooth doors, Pocket doors, and French doors (as per plan/options)
- Decorated columns and complementing low wall detail (as per plan/options)
- Art niche(s), stepped walls, vaulted and / or cathedral ceilings, double height and Palladian windows, curved walls, media centers and art ledges, and waffle ceilings (as per plan/options)
- Thoughtful storage considerations with well appointed linen, pantries and mud room closets, spacious walk-in closets with shelving installed (as per plan/options)

CUSTOMER FRIENDLY UPGRADE PROGRAM

- We are pleased to provide quotations prior to construction for extras or custom finishes for interior features. Purchasers have the opportunity to make upgraded interior selections when they attend to choose their colours and materials (when schedules permit)

COMFORT SMART HOME AUTOMATION

- One (1) smart central Automation Hub with touchscreen located at the front entrance of the home
- One (1) smart door lock on the inside garage door leading to house (grade/options permitting)
- One (1) smart lighting control
- One (1) smart thermostat control
- One (1) smart water-leak sensor
- One (1) pre-construction homeowner system design consultation
- One (1) customer system training session
- StateView Homes shall provide a personally scheduled appointment with our qualified Technical Contractor to explain and co-ordinate any additional technology requirements requested

STATEVIEW HOMES GUARANTEE

- Backed by "Tarion" (Ontario New Home Warranty Program). StateView Homes, is a registered member of TARIION and shall comply with all warranty requirements
- 7-year structural warranty, 2-year warranty, and 1-year builder's comprehensive warranty

AS PER PLAN / ELEVATION / OPTIONS

- All references to size, measurements, materials, construction styles, trade/brand/industry name or terms may be converted from imperial to metric or vice versa and actual product size may vary slightly as a result.
- All references to features and finishes are as per applicable plan or elevation and each item may not be applicable to every home. Locations of features and finishes are as per applicable plan or at the vendor's sole discretion. Purchaser is aware that all items labeled as opt. (optional) are not included in the standard layout.
- All features and finishes where Purchaser are given the option to select the style and/or colour shall be from the predetermined standard selections.
- The vendor will not allow the purchaser to do any work and/or supply material to finish the dwelling before the "Home Closing Date".
- House types subject to final approval by the municipality or developer's architectural committee (not binding and approval by the vendor's architect).
- Variations from vendor's samples may occur in finishing materials, kitchen and vanity cabinets, floors and wall finishes due to normal production process. The vendor is not responsible for shade difference occurring from different dye lots on all material such as ceramic tile or broadloom, roof shingles, hardwood flooring, wood stairs, railing, kitchen cabinets, countertops, or exterior materials. Colours and material will be as close as possible to vendor's samples but not necessarily identical. Where Purchaser are given the option to upgrade the stain of the interior stairs and railings, the purchaser is aware that the stain will complement the hardwood. "It will not match the hardwood"
- Purchaser may be required to match colours and/or materials from the vendor's samples as a result of unavailability or discontinuation. Due to grade, clear from garage to house may not be available
- Ceilings and walls may be modified to accommodate mechanical system.
- Purchaser acknowledges being advised that the windows they experience condensation as a result of changes in temperature and humidity in the house and accepts this as a natural characteristic of the windows, and is advised to keep humidity level constant to reduce this tendency.
- In an effort to continuously improve its product StateView Homes reserves the right to alter brochures, exterior, specifications and prices without notice. All warranties, floor plans and maps in brochures and sales displays are artist's conceptions and are not necessarily to scale and the dimensions/figure/imagery are approximate and may vary due to continuous improvement by the vendor.
- The Purchaser acknowledges that the floor plan may be reversed.
- The vendor reserves the right to substitute materials that are of equal or better quality. The determination of whether or not a substitute is of equal or better quality shall be made by the vendor whose determination shall be final and binding.
- The ceiling height is measured from the top of the unfinished subfloor to the underside of the unfinished ceiling above before finishes and excluding bulkheads and drop ceilings, as per plan.
- Final locations to the size of the Dwelling including internal dimensions of any items are made on the Dwelling the Purchaser shall accept such minor variations without any abatement to the Purchase Price (5-10% total area allowed)

HARMONY

StateView's Harmony Package is specially designed set of Features and Finishes meant to save water and energy, built from sustainable, ethically sourced materials and promote eco-friendly lifestyle.

COMFORT

StateView's Comfort Plus Package is a smart home automation system designed to improve life of homeowners, help with maintenance, security and efficiency of each house.



STATEVIEW
HOMES

01/19/21





Nao Towns
Phase 2
Extra's

\$5,000 show room credit from full deposit used up towards 4th bedroom plan



Selected

The Vendor agrees to cap all development levies and closing costs at [REDACTED] plus HST

NAO

Phase 2

Modern Townhomes Surrounded
By Inspiring Natural Beauty
in Markham



FULL DEPOSIT BONUS PACKAGE

\$5,000 Showroom Credit*

(Cannot be put towards the purchase price)

Laminate Flooring in All Bedrooms

(4 mm natural oak laminate flooring)

Standard Appliance Voucher

Roof Top Terrace Included

(1/2 Roof Top Terrace included in full deposit bonus package - As per applicable plans and elevations)

StateViewHomes.com

NAO TOWNS, 14TH AND MCCOWAN ROAD, MARKHAM



NAO

Phase 2

Modern Townhomes Surrounded
By Inspiring Natural Beauty
in Markham



GOING FIRM BONUS PACKAGE

Laminate Flooring in All Bedrooms

(4 mm natural oak laminate flooring)

Appliance Package

- Whirlpool 36" French Door Stainless Fridge Full Depth
- Whirlpool 30" Electric Stove Stainless
- Whirlpool 24" Stainless Dishwasher
- Whirlpool 30" Chimney Hood



Roof Top Terrace Included

(1/2 Roof Top Terrace included in Going Firm Bonus Package - As per applicable plans and elevations)



StateViewHomes.com

NAO TOWNS, 14TH AND MCCOWAN ROAD, MARKHAM

STATE VIEW
HOMES

Live Inspired.

AMENDMENT TO THE AGREEMENT OF PURCHASE AND SALE

NAO TOWNS

BETWEEN: STATEVIEW HOMES (NAO TOWNS) INC. (the "Vendor") - and -

[Redacted] (the "Purchaser")

Lot # ~~120~~ 121

[FX]

[9] DS

02/04/2021

DATE OF AGREEMENT OF PURCHASE AND SALE: _____

NOW THEREFORE THIS AMENDMENT WITNESSETH that in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration and the sum of TWO (\$2.00) DOLLARS of lawful money now paid by each party hereto to the other (the receipt and sufficiency of which is hereby acknowledged by all parties), the parties hereto hereby covenant and agree to and with each other and each of them that the above-mentioned Agreement of Purchase and Sale shall be amended as follows, and except for such amendment(s) noted below, all other terms and conditions of the Agreement of Purchase and Sale shall remain as stated therein, and time shall continue to be of the essence.

1. INSERT:

Notwithstanding anything at Section 10(b) of the Agreement of Purchase and Sale, the Purchaser hereby consents to the assignment of the Purchaser's interest in the Agreement of Purchase and Sale to an assignee in accordance with the herein provisions. As a condition of providing such consent, the Purchaser and the assignee will be required to execute and deliver to the Vendor the Vendor's standard form of assignment agreement and to pay the Vendor's fee of \$5,000 (FIVE THOUSAND DOLLARS) plus applicable taxes together with the Vendor's solicitor's fees of \$1050.00 plus Applicable Taxes. Prior to the Vendor's release of the assignment agreement for execution, the assignee shall deliver sufficient evidence to satisfy the Vendor (in its sole discretion) that the assignee has the financial resources to complete the purchase transaction. Despite any assignment, the Purchaser shall not be released from the obligations and liabilities under the Agreement of Purchase and Sale until the completion of the purchase transaction by the assignee. No agreement other than the Vendor's form of assignment agreement shall validly effect an assignment of the Purchaser's interest in the Agreement of Purchase and Sale. Notwithstanding the Vendor's consent, the Purchaser shall not list, allow or cause to be listed the Property for sale or assignment on a listing service system including, without limitation, the Multiple Listing Service ("MLS") or on, by or through any other publication or medium. 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 the Agreement of Purchase and Sale effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of the Agreement of Purchase and Sale dealing with the consequence of termination by reason of the Purchaser's default, shall apply.

This Amendment to the Agreement of Purchase and Sale may be signed in counterparts and each counterpart when so executed and delivered in person or by electronic means shall be deemed an original and all of which together shall constitute, collectively, one and the same document.

The parties hereto further agree that the covenants, agreements, provisos and conditions in this Amendment to the Agreement of Purchase and Sale shall extend to and be binding upon and enure to the benefit of the parties hereto, and their respective heirs, executors, administrators, successors and permitted assigns.

02/04/2021

DATED at Toronto, this _____ day of _____, 2021.

Witness Name: [Redacted] Purchaser:

Purchaser

DATED at _____ this _____ day of _____/2021, 2021.

STATEVIEW HOMES (NAO TOWNS) INC.

Per: [Redacted] I have the authority to bind the corporation.

[FX] [9] DS

AMENDMENT TO THE AGREEMENT OF PURCHASE AND SALE

Between: STATEVIEW HOMES (NAO TOWNS) INC. (the "Vendor")
-and- [Redacted] (the "Purchaser")
02/04/2021

Date of Agreement of Purchase and Sale: the ___ day of _____, 2021 (the "Agreement")

Re: Lot Number: 121 Model Name: Dorado Street:
[Redacted] 121
[Redacted] 420

NOW THEREAFTER THIS AMENDMENT WITNESSETH that in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration in the sum of TWO (\$2.00) DOLLARS of lawful money now paid by each party hereto to the other (the receipt and sufficiency of which is hereby acknowledged by all parties), the parties hereto hereby covenant and agree to and with each other of them as follows:

That the above-mentioned Agreement shall be amended as follows and except for such amendment(s) noted below, all other terms and conditions of the Agreement shall remain as stated therein, and time shall continue to be of the essence.

INSERT

Parent, Notwithstanding anything at Section 12(b) of the Agreement of Purchase and Sale, provided the Purchaser delivers to the Vendor (i) notice in writing to the Vendor (with such information as the Vendor or the Vendor's solicitors may require), the Purchaser shall be entitled to assign its interest in this Agreement no later than ninety (90) days before the Closing Date to any child, sibling or spouse that is eighteen years of age or older at the time of the assignment and who will acquire the Property as his primary place of residence. The assignee shall be bound by all of the agreements, covenants and obligations contained in this Agreement including, without limitation, his liability to the Vendor in the event that he is not entitled to the Rebate referred to in the Section entitled "HST Clause" below, and shall provide the Vendor with a covenant in the Vendor's form to agree to be bound as aforesaid immediately upon request by the Vendor. Despite any such assignment, the Purchaser shall remain liable to the Vendor for the Purchaser's obligations under this Agreement, jointly and severally with the assignee.

DATED at Toronto this ___ day of 02/04/2021, 2021. Fan Xiaoyu

SIGNED, SEALED AND DELIVERED IN WITNESS whereof I have hereunto set my hand and seal:
in the presence of:

Witness: Signature: [Redacted]
24/02/2021 12:34:01 PM EST
Purchaser: [Redacted]

Witness: Signature:
Purchaser: 2/6/2021

DATED at ___ this ___ day of ___, 2021.

Stateview Homes (Nao Towns) Inc.
[Redacted]
Per: [Redacted]
Authorized Signing Officer
I have authority to bind the Corporation

[9] [FX]

STATEVIEW
HOMES
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APPLIANCE CERTIFICATE OF ELEGANCE BROUGHT TO YOU BY STATEVIEW HOMES



WHIRLPOOL 36 INCH STAINLESS FREE STANDING FULL DEPTH FRIDGE



WHIRLPOOL 30 INCH STAINLESS ELECTRIC RANGE



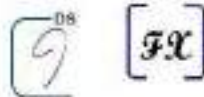
WHIRLPOOL 30 INCH CHIMNEY STYLE HOOD FAN



WHIRLPOOL 24 INCH STAINLESS DISHWASHER

This certificate entitles you to the above appliances supplied by Best Brand Appliance courtesy of Stateview Homes

6221 HIGHWAY 7, UNIT 9, VAUGHAN, ON L4H0K8



This offer applies to all Stateview Homes homeowners that receive an Appliance Package in their offer to purchase. Appliance pictures are for representation purposes only. Models or appliance brand may change without notice.

BEST BRAND APPLIANCE

APPLIANCE VOUCHER

STATEVIEW HOMES
Live Inspired



1. Please book your appointment with Courtney Bullock Builder Assistance and Organizer or (905) 264-3137
2. This certificate is voided if Homeowner agreement is voided or if the agreement is amended or revised to delete any or all of the appliances.
3. It is the Homeowner's responsibility to arrange appliance installation. All appliance packages include free delivery of products and removal of packaging materials.
4. Installation is not included but can be provided through Appliance Squad during the upgrade options and managed by Best Brand Appliance. Stateview Homes will not be responsible for any issues or damages from appliance installation.
5. In the event the Homeowner wishes to upgrade the standard appliance package, a credit based on the wholesale value will be applied to the price of the upgraded products.
6. All upgrades require a 50% deposit upon selection and the balance to be paid before delivery, paid directly to Best Brand Appliance.
7. Homeowners may upgrade appliances directly with Best Brand Appliance. Any upgrades are to be paid directly to Best Brand Appliance and Homeowners are to inform Stateview Homes of any changes to the dimensions of the appliances. Stateview Homes will not be responsible for appliances not fitting due to late upgrades. Cabinetry, gas lines and rough-ins are not included and must be arranged through Stateview Homes. Stateview Homes is not responsible for any upgrades purchased through Best Brand Appliance.
8. Once the chosen appliances are delivered no exchanges or returns will be allowed. All Hood Fans are final sale.
9. Appliance models are subject to change without notice, a replacement model will be selected by Best Brand for that exact model.
10. Door swings on refrigerators must be stated at time of purchase.
11. Standard and upgrade package appliances will be delivered to the home after the closing date. It is the Homeowners responsibility to make arrangements directly with Best Brand Appliance in setting up delivery and paying of the final upgrade balance.
12. Certificate has no cash value and is non-transferable.
13. Extended warranties will be offered on all packages as an upgrade option.
14. 1 year warranty is the standard manufacture warranty.

Homeowner(s) acknowledge that they have read and accept the above terms and conditions.

[Signature]

Builder Assistance and Organizer
Courtney Bullock courtney@bestbrandappliance.ca (905) 264-3137 EXT. 231

HOMEOWNER ACKNOWLEDGES THAT THEY HAVE READ AND ACCEPT THE ABOVE TERMS AND CONDITIONS

APPLIANCE PACKAGE INCLUDES REFRIGERATOR, RANGE, DISHWASHER, WASHER, DRYER (STACKED) & VENTILATION

SITE: Stateview Homes - NAO TOWNS PHASE 2 - Markham

HOMEOWNERS: [Redacted]

LOT # 120 CLOSING DATE: _____

HOME # _____ CELL # _____

EMAIL: [Redacted]

AUTHORIZATION: _____

DATE _____ PER _____

EXTENDED WARRANTIES AVAILABLE - *ASK FOR COMPLETE DETAILS

DEFINITIONS

6. The following terms shall have the following meaning for the purposes of this agreement:
- a) "**Act**" shall mean the Condominium Act, 1998, C. 19 S.O. 1998 as amended
 - b) "**Agreement**" and/or "**Purchase Agreement**" shall mean this agreement and all schedules thereto as amended from time to time.
 - c) "**Closing Date**" shall mean the date that the Vendor transfers title to the POTL to the Purchaser in accordance with the terms of the Addendum.
 - d) "**Condominium Corporation**" and/or "**Condominium**" and/or "**condominium**" shall mean the Common Element Condominium Corporation created upon registration by the Vendor of the Creating Documents, and the term "**Condominium**" shall mean the Common Elements Condominium created upon registration of the Creating Documents;
 - e) "**Condominium Documents**" shall mean the Creating Documents (as hereinafter defined), the by-laws and rules of the Condominium Corporation, any agreements authorized by by-law, the disclosure statement and budget statement, all as may be amended from time to time;
 - f) "**Creating Documents**" means the declaration and description (as such terms are defined in the Act), which are intended to be registered against title to the lands comprising the Condominium Corporation and which will serve to create the Condominium, as may be amended from time to time;
 - g) "**Deposits**" shall mean the deposits or any one of them as set out on Page 3 of this Agreement, to be credited towards the Purchase Price on the completion of the transaction that is the subject of this Agreement;
 - h) "**Development Agreements**" has the meaning attributed thereto in paragraph 30.
 - i) "**Extras**" or "**extras**" means those finishes, wall coverings, floor coverings, fixtures, appliances and/or upgrades or any of the foregoing not specified in any schedule of standard suite finishes or schedule of upgrades;
 - j) "**Governmental Authorities**", "**governmental authorities**", "**Governmental Authority**" or "**governmental authority**" means the Municipality (as hereinafter defined), together with any county, regional, provincial, federal and/or other governmental authority or agency and/or any utility or service provider (private or public) providing services or utilities to the Property and/or Subdivision and/or having jurisdiction over the Subdivision;
 - k) "**Lands**" or "**Real Property**" shall mean those lands and premises comprised of: PT LT 6, CON 6, AS IN R264882; T/W MA55203; MARKHAM being PIN: 02962-0268; PT LT 6, CON 6, AS IN R329719; T/W MA55276; MARKHAM being PIN: 02962-0269;
 - l) "**Municipality**" means the local municipality in which the Property is situate, and if such entity is not the designated authority for the purposes of granting approvals pursuant to Section 51 of the Planning Act, R.S.O. 1990 as amended (the "**Planning Act**"), then the term "Municipality" shall include such approval authority to the extent that it has power and authority to the matters ascribed to a "Municipality" hereunder;
 - m) "**Occupancy Date**", "**Occupancy**", "**occupancy date**" or "**occupancy**" shall mean whichever of the Firm Occupancy Date, Delayed Occupancy Date and/or the Outside Occupancy Date on which the Vendor gives the Purchaser legal occupancy of the Dwelling Unit (as hereinafter defined), in accordance with the terms of this Agreement and the Addendum. Provided that in the event that the Purchaser has already been provided with occupancy of the Unit (as hereinafter defined), then such terms shall mean the Closing Date;
 - n) "**Occupancy Fee**" or "**Occupancy Fees**" shall mean the sum or sums of money payable as set out in the Occupancy Licence;
 - o) "**Occupancy Licence**", "**Occupancy Agreement**" "**Licence Agreement**", "**Interim Occupancy Licence**" and/or "**Interim Occupancy Agreement**" shall mean the agreement setting out the terms and conditions by which the Purchaser shall occupy the Unit during Interim Occupancy as substantially set forth in Schedule "C" forming part of this Agreement. Provided that the Vendor reserves the right to amend or vary such terms and conditions and the Purchaser agrees to accept such revisions and amendments. The Purchaser shall execute the Interim Occupancy Licence on or before the Occupancy Date; "**Occupancy Payment**" shall mean the additional deposit to be paid by the Purchaser on the Closing Date if the Closing Date occurs before the Occupancy Date, which shall be an amount equal to ten percent of the Purchase Price. In the event that the ONHWPA and/or the Addendum prohibits such additional deposit then the obligation to pay same shall be deemed to be deleted from this agreement and the balance of the agreement shall remain in full force and effect;
 - p) "**ONHWPA**" shall mean the Ontario New Home Warranties Plan Act, R.S.O., 1990 as amended and all its regulations and bulletins;
 - q) "**POTL**" shall mean the freehold parcel-of-tied land as described on Page 3 of this Agreement. The Purchaser acknowledges and agrees that a reference plan describing the POTL shall be registered prior to the Occupancy Date (as hereinafter defined) and that the description of the POTL or Property set out on the

transfer/deed of lands given to the Purchaser on the said Occupancy Date shall be described in accordance with such reference plan, and the Purchaser agrees to accept such revised description in lieu of the description as may be set out in this agreement;

- r) **"Property"** shall mean the Dwelling and POTL collectively;
- s) **"Property Services"** or **"Dwelling Services"** shall mean those telephone, internet, telecommunication, water, gas, electrical, sewer and other services and utilities provided to the Property by any utility or service provider;
- t) **"Purchaser"** means the purchaser(s) as defined in paragraph 1 of page 3 of this Agreement to which this schedule is attached;
- u) **"Purchase Price"** means the purchase price of the Property as defined on page 3 of this Agreement to which this schedule is attached, as increased by any amount(s) as set out herein reimbursable and/or payable by the Purchaser to the Vendor (hereinafter defined as "Additional Charges") for the purposes of calculating the total value of consideration for the purposes of HST and Land Transfer Tax, and as amended or adjusted in accordance with the terms and provisions of this Agreement;
- v) **"Rebate"** or **"Rebates"** shall mean any provincial and/or federal new housing purchase rebate and/or transitional rebate applicable to this purchase transaction (regardless whether such transitional rebate is initially claimable by the Purchaser or the Vendor), and shall include any refund, credit, rebate of any form or nature of such HST applicable to this purchase transaction but specifically shall not include any new housing residential rental or leasing rebate whatsoever, and such Rebates shall be fully assignable, transferred and/or credited and/or paid to the Vendor as hereinafter set out;
- w) **"Residential Dwelling"** or **"Dwelling"** shall mean the home to be constructed upon the POTL by the Vendor, in accordance with this agreement;
- x) **"Schedule"** shall mean any schedule attached or annexed to this Agreement, which shall form part of this Agreement, and the term **"Schedules"** shall mean any two or more of same;
- y) **"service provider"** or **"Service Provider"** shall mean any party providing any service or utility to the Property and/or Subdivision;
- z) **"Developer"** means the registered owner of the Lands (including the Vendor if applicable) as of the date that the Condominium is registered;
- aa) **"Tarion"** or **"Warranty Corporation"** shall mean Tarion Warranty Corporation;
- bb) **"Teraview Electronic Registration System"** or **"TERS"** shall mean the electronic real estate gateway and document production system available to authorized solicitors in the Province of Ontario, used in the creation and delivery of the Transfer/Deed of Land conveying title to the Property;
- cc) **"Vendor"** means the party or corporation defined as same on the front page of this Agreement to which this schedule is attached;

ADJUSTMENTS AND REIMBURSEMENTS TO THE PURCHASE PRICE

- 7. The Purchaser shall be responsible and obligated to pay the following costs and/or charges in respect of the Property either on the Occupancy Date or the Closing Date as determined by the Vendor. The Purchase Price shall be adjusted to reflect the following items, which shall be apportioned and allowed to the Closing Date with the day itself apportioned to the Purchaser:
 - (a) The Purchaser agrees to take all necessary steps to assume immediately on Closing, charges for electricity, water, gas and other services, and the Vendor may recover any payments made by the Vendor on account of the Property from the Purchaser. The gas meter/water meter/electricity meter is/are not included in the purchase if it/they is/are not the Property of the Vendor. The Purchaser shall pay, or reimburse the Vendor for the cost of, or the charge made for, or prepayments for, or security performance deposits relating to, any of the water, electricity or gas service, including, without limitation, the cost and/or installation of any meters, and the installation, connection and/or energization fees for any of such services. The Purchaser agrees to accept the utility suppliers designated by the Vendor. Subsequent to Closing and prior to assumption of the subdivision by the Municipality, if the Purchaser changes any or all of the utility suppliers, the Purchaser shall be responsible for the repair of any damage caused to the Property and neighbouring lands by such alternate utility suppliers and any costs incurred by the Vendor or Vendor to restore the Property to the original state provided by the Vendor;
 - (b) Taxes, fuel, water rates, assessment rates and local improvements to be apportioned and adjusted with the Vendor being responsible for all such charges up to the Closing Date with the Purchaser being responsible for all such charges from and including the Closing Date. Where the Vendor has posted security for taxes, made payment for taxes or has been advised by the applicable authority that taxes will be billed to its account for the current year and/or following year, taxes shall be adjusted as if such sum had been paid by the Vendor notwithstanding that the same may not by the Closing Date have been levied or paid, subject, however, to readjustment upon the actual amount of said realty taxes being ascertained. In the event realty taxes have not been individually apportioned or assessed in respect of this Property and remain en bloc, then notwithstanding that such en bloc taxes may be outstanding and unpaid, the Purchaser covenants to complete this transaction and accept the Vendor's undertaking to pay realty taxes once individually assessed against this Property and agrees to pay on Closing a deposit to be readjusted and to be applied on account of the Purchaser's portion of realty taxes applicable to this Property.

Municipal realty tax re-assessment and/or supplementary tax bills relating to the Dwelling constructed on the Property issued subsequent to the Closing shall be the sole responsibility of the Purchaser. Notwithstanding the foregoing, the Vendor shall not be obliged to make any readjustment of the foregoing deposit in the event that such readjustment is equal to or less than one hundred fifty dollars (\$150.00);

- (c) The Purchaser shall pay to the Vendor on closing the charge imposed upon the Vendor or its solicitors by the Law Society of Ontario upon registration of the Transfer/Deed of Land or Charge/Mortgage of Land or any other instrument in the amount of sixty-five dollars (\$65.00);
- (d) The Vendor represents and warrants that it is reregistered as a builder under the Warranty Act, as hereinafter defined, and that the Property is or will be enrolled under the Warranty Act. The Purchaser covenants and agrees to reimburse the Vendor on closing for the enrollment fee paid by the Vendor for the Property under the Warranty Act (together with any provincial or federal taxes eligible with respect thereto);
- (e) A Five Hundred Dollars (\$500.00) administrative fee shall be charged to the Purchaser for any cheque delivered to the Vendor pursuant to this Agreement or for any extras ordered, which is returned "N.S.F." or upon which a "stop payment" has been ordered or is not honoured by the bank of the Purchaser for any other reason (collectively "Returned Cheque") and such administration fee shall form a credit in favour of the Vendor in the Statement of Adjustments for each Returned Cheque and shall be paid on the Closing Date;
- (f) any increase after the date of execution of this Agreement by the Purchaser in any levy, payment, contribution, charge, fee assessment, together with any and all interest charges pertaining to development charges levied by the municipality including without limitation, any parks levies, development charges, education development charges, cash in lieu of parkland dedication payments, public art contributions and/or impost charges (collectively, the "Existing Levy") required, assessed, charged or imposed as of that date by the Municipality, a regional municipality, a transit authority, a public or separate school board or any other authority having jurisdiction under the Development Charges Act, the Education Act, the Planning Act and any other existing or new legislation, bylaw and/or policy and/or if any of the aforesaid authorities require, assess, charge or impose a new or any other levy, payment, contribution, charge, fee or assessment (collectively referred to as the "New Levy") under the Development Charges Act, the Education Act, the Planning Act and any other existing or new legislation, bylaw and/or policy after the date of execution of this Agreement by the Purchaser then, the Purchaser shall pay to the Vendor the increase to the Existing Levy and/or amount of the New Levy, as the case may be, as an adjustment on the Closing Date plus Applicable Taxes exigible thereon;
- (g) All proper readjustments shall be made after Closing, if necessary, forthwith upon written request. The Vendor may reserve a Vendor's Lien, following the Vendor's usual form, for unpaid purchase monies or adjustments or claims herein provided together with the interest thereon as provided for herein, and the Purchaser covenants and agrees to forthwith pay all costs in relation to said Vendor's Lien including, without limitation, the Vendor's solicitor's legal fees and disbursements and the cost to register said Vendor's Lien on title to the Property. The Vendor will upon request deliver to the Purchaser (for registration at the Purchaser's expense) a release of the Vendor's Lien after such unpaid purchase monies or adjustments or claims herein provided, as applicable, together with the interest thereon as provided for herein have been received by the Vendor and upon payment of a discharge fee of one hundred dollars (\$100.00) plus Applicable Taxes;
- (h) The Purchaser shall provide a refundable security deposit in the amount of twenty-five hundred dollars (\$2,500.00) on the Closing (the "Security Deposit") to secure compliance with the Purchaser's obligations hereunder including, without limitation, the Purchaser's grading and subdivision damage covenants. The Purchaser and/or the Purchaser's designate does hereby agree that at the time of the PDI or such other time as may be set by the Vendor, the Purchaser and/or the Purchaser's designate will attend at the Property and upon such request, the Purchaser and/or the Purchaser's designate and Vendor mutually agree that they will attend at the Property to inspect with the Vendor the subdivision services installed by the Vendor or Vendor and to compile a list of all existing damages or defects to the subdivision services, including buried or damaged water boxes and keys, damaged curbs or sidewalks, retaining walls, acoustic barriers, fences and other such applicable services. Such compiled list to be signed by the Vendor and the Purchaser and/or the Purchaser's designate, and the Purchaser shall not under any circumstances be responsible for the cost of repair, rectification or replacement of such existing damages or defects and the Vendor shall not apply any portion of the Security Deposit paid by the Purchaser in compliance with this Agreement in respect of the repair, rectification or replacement of any such existing damages to the subdivision services. The Vendor's consulting engineer for this subdivision shall be the authority for the development of the subdivision as a whole and will determine responsibility and damages and costs therefore and in the event that the Vendor's consulting engineer determines the responsibility for the cost of repair, rectification and/or replacement is that of the Purchaser, then the Vendor will charge the Purchaser accordingly, save and except for those items listed on inspection as noted herein and the Purchaser agrees to abide by such engineer's decision and the Vendor will deduct the cost of such repair, rectification or replacement from the Security Deposit relevant thereto. Should the cost of such repairs, rectification or replacement EXCEED the value of the Security Deposit, then the Vendor shall be entitled to compensation from the Purchaser for the difference between the Security Deposit and such costs and the Purchaser shall pay such shortfall amount upon demand by the Vendor. The Security Deposit, (or any balance thereof after applicable deductions as herein described) shall be released to the Purchaser(s) named in this Agreement AFTER the event of Municipal Assumption of Subdivision Services;
- (i) In the event the Vendor has provided the Purchaser with a building or foundation survey, the Purchaser shall pay the Vendor same in the amount of five hundred (\$500.00), plus Applicable Taxes as an adjustment on Closing;
- (j) Any charges, plus Applicable Taxes, paid by the Vendor to the Municipality and/or other governmental authority with respect to "Blue Boxes" or other recycling programs, shall be reimbursed to the Vendor on the Closing;

- (k) If the Purchaser fails to enter into any necessary contractual arrangements with the relevant public or private utility authorities and suppliers with regards to the provision of water, hydro, gas, cable TV and/or any other service to the Property on or after the Closing Date (or the Occupancy Date if the Purchaser takes Occupancy of the Dwelling before the date of Closing), the Purchaser shall forthwith upon demand pay to the Vendor all amounts charged to the Vendor after the Closing Date (or the Occupancy Date if the Purchaser takes Occupancy of the Dwelling before the date of Closing) with regards to such utilities and/or services plus the Vendor's administrative fee of two hundred fifty dollars (\$250.00) plus Applicable Taxes for each month (or part thereof) that the Vendor is charged for each said utilities and/or services;
- (l) if requested by the Vendor or the Electricity Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of electricity and/or the party monitoring consumption of electricity to the Property (the "Electricity Provider"), on the Electricity Provider's form, for the provision and/or metering of electricity services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such electricity services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date;
- (m) if requested by the Vendor or the Water Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of water and/or the party monitoring consumption of water to the Property (the "Water Provider"), on the Water Provider's form, for the provision and/or metering of water services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such water services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date;
- (n) if requested by the Vendor or the Gas Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of gas and/or the party monitoring consumption of gas to the Property (the "Gas Provider"), on the Gas Provider's form, for the provision and/or metering of gas services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such gas services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date.
- (o) In the event the Vendor has undertaken an obligation to the Vendor to contribute to the cost of subdivision esthetic enhancement such as boulevard treatment or improvement, or landscaping, or subdivision entrance features, or corner lot fencing, or fences or retaining walls, in the subdivision, the Purchaser shall, on closing, reimburse the Vendor as to the cost thereof for the Property, the cost to be absolutely determined and apportioned by statutory declaration sworn on the part of the Vendor.
8. All proper readjustments shall be made after Closing Date and/or the Occupancy Date, if necessary, forthwith upon request. Any limits on the costs of adjustments or reimbursement shall be deemed to be exclusive of applicable taxes and the Vendor shall be entitled to add the cost of applicable taxes to such adjustments, including any HST that may be added to the Levies or other adjustments, if required by the Canada Revenue Agency. The Vendor shall provide a statutory declaration of the costs for which it is requesting re-adjustment after closing, and such adjustments as owed to the Vendor shall be a charge on the Property, and the Vendor shall be entitled to a vendor's lien in respect of same and shall be entitled to enforce such payment in the same manner as a mortgage in default.

HARMONIZED SALES TAXES

9. a) The Purchase Price set out above includes the HST net of Rebates as assigned/transferred to the Vendor, and the Purchase Price has been established on the basis that Purchaser will qualify for the full amount of the Rebate or Rebates, as applicable, and that the Rebate or Rebates will be assigned or an equivalent amount transferred or credited to the Vendor, in addition to such Purchase Price. The current rate of HST is 13 percent and this is the rate that is applicable to this contract before netting out the Rebates from such HST. Purchasers are advised that the Purchase Price offered to the Purchaser has been calculated on the basis that the Purchaser shall qualify for and assign to and/or transfer and/or reimburse the Vendor the maximum Rebate based on the Purchase Price set out herein as adjusted, save and except as hereinafter set out to the contrary. The Vendor shall credit the Purchaser on Closing Date as determined by the Vendor, with all Rebates to which the Purchaser is entitled, subject to the Purchaser assigning and/or transferring or crediting the Rebates (or an equivalent amount) to the Vendor and/or reimbursing the Vendor for such Rebates as hereinafter set out subject to the assignment/transfer/crediting of the Rebates to the Vendor. The Purchaser warrants and represents that he/she qualifies for the full amount of the Rebate possible with respect to this purchase transaction and that either he or she or a blood relation, as set out in the ITA, shall be occupying the Property from and after the Closing Date. In the event that there is any legislation of any Governmental Authority that does not permit the assignment of the Rebate then the Purchaser shall transfer, credit and/or pay an equivalent amount of the Rebate to the Vendor on Closing (or thereafter as applicable) and the Vendor shall be entitled to vendor's lien for such amount and the Purchaser acknowledges that this amount form part of the consideration due to the Vendor.
- b) If the rate of HST is increased or decreased or the percentage of calculation of the Rebate is amended/reduced, or the rate or thresholds in respect of the HST exemptions or rebate entitlement are changed between the date of this Agreement and the Closing Date or Occupancy Date, with the result that the net amount of the HST to be remitted by the Vendor increases, then the Purchaser shall pay the Vendor an amount on the Closing Date equal to such additional HST payable by the Vendor. A statutory declaration of any officer of the Vendor as to the alteration, increase amendment, etc., as hereinbefore set out shall be determinative in this regard.

- c) If the rate of the HST is reduced between the date of this Agreement and the Closing Date but such reduction is for the benefit of the Purchaser and not the Vendor (the "HST Credit"), then the Purchaser hereby assigns all right, benefit and entitlement to such HST Credit and shall execute any and all forms, documents, assignments, etc., as required by the Vendor in this regard in the Vendor's absolute discretion. The Purchaser hereby irrevocably authorizes and directs CRA to pay or credit the HST Credit directly to the Vendor.
- d) The Purchaser covenants and warrants (which covenant and warranty shall survive the completion of this Agreement) that he/she has not made any claim and will not make any claim for any Rebate or HST Credit in respect of the Property.
- e) Notwithstanding any other provision in this Agreement to the contrary, the Purchaser agrees that the Purchase Price for the Property, set out on page 3 of this Agreement, does not include HST on closing adjustments and amounts payable for Extras and/or upgrades purchased or ordered by the Purchaser (whether as part of this Agreement or otherwise) payable under this Agreement and that same are subject to HST on the Closing Date and that such HST shall be chargeable and payable by the Purchaser in addition to any other HST included in the Purchase Price. The Purchaser acknowledges and agrees that the HST payable in respect of such adjustments and/or Extras and/or upgrades shall be at the rate of HST otherwise applicable to this Agreement.
10. The Purchaser hereby irrevocably assigns and/or transfers to and/or credits the Vendor all of the Purchaser's rights, interests and entitlements to the Rebate (and concomitantly releases all of the Purchaser's claims to or interests in the Rebate, to and in favour of the Vendor), and hereby irrevocably authorizes and directs CRA to pay or credit the Rebate directly to the Vendor. The Purchaser represents and warrants that the Purchaser is acquiring the Property for his or his blood relative's primary place of residence within the meaning of the Excise Tax Act (Canada) or Income Tax Act (Canada) or any replacement statute and is entitled to the maximum amount of the Rebate applicable to purchase transactions of this nature, at the Purchase Price as amended in accordance with in this Agreement. In the event that there are separate assignments and rebates of the provincial and/or federal portion of the HST with respect to this transaction, the Purchaser shall execute and deliver all applications, assignments, declarations, documents and/or other assurances (in the form required by the Vendor or the Government of Canada and/or the Province of Ontario) to the Vendor required to establish and assign all of his or her right, title and interest in the Rebates or any portion thereof. In the event that there is any legislation of any Governmental Authority that does not permit the assignment of the Rebate then the Purchaser shall transfer, credit and/or pay an equivalent amount of the Rebate to the Vendor on Closing (or thereafter as applicable) and the Vendor shall be entitled to vendor's lien for such amount and the Purchaser acknowledges that this amount form part of the consideration due to the Vendor. The Purchaser covenants and agrees that the Vendor shall have the right in its complete discretion to determine whether the Purchaser qualifies for any Rebates and the Vendor's determination of such entitlement shall be final and binding. The Purchaser hereby covenants, warrants and/or represents to the Vendor, with respect to this transaction, that:
- a) the Purchaser is a natural person who is acquiring the Property with the intention of being the sole beneficial owner thereof on the Closing Date (and not as the agent or trustee for or on behalf of any other party or parties),
- b) upon the Occupancy Date and continuing up to and including the Closing Date, and continuing thereafter, the Purchaser or one or more of the Purchaser's blood relations, as determined in accordance with the Excise Tax Act (Canada) and Income Tax Act (Canada), 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; and
- c) he or she has not claimed (and hereby covenants not to 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 or permitted.
11. The Purchaser acknowledges and agrees that:
- a) the total consideration for the calculation of HST includes not only the Purchase Price but all other taxable supplies charged to the Purchaser pursuant to this Agreement or otherwise including without limitation, Extras, upgrades, applicable adjustments and/or reimbursements charged by the Vendor under this Agreement such as Tarion Enrolment fees, connections fees, as well as any charge for development charge levies and education levies or other levies and charges, etc. (with such additional amounts hereinafter referred to as the "Additional Charges"), the costs of which the Vendor may charge to the Purchaser. The Additional Charges and applicable HST shall constitute part of the taxable supply with respect to the said transaction and shall be added to the Purchase Price to determine the total consideration upon which HST and the Rebate are calculated; and
- b) any Extras and/or Additional Charges are part of the single supply of the home and for HST purposes constitutes a change in the price being paid for the Dwelling and for the purposes of HST shall be deemed to form part of the Purchase Price.
12. If it is determined by the Vendor that the Purchaser is not entitled to the maximum permitted Rebate or any portion thereof (including any portion of same the Purchaser becomes disentitled to as a result of an increase in the total consideration payable hereunder as a result of any Additional Charges, Extras, etc., purchased or payable by the Purchaser), the Purchaser agrees to pay to the Vendor, in addition to any other amounts stipulated in this Agreement, the amount of the Rebate to which the Purchaser becomes disentitled, (which shall be paid on the Closing Date) and until so paid, such amount shall form a charge/vendor's lien against the Property, which charge shall be recoverable by the Vendor in the same manner as a mortgage in default. The Purchaser covenants and agrees to indemnify and

save the Vendor harmless from and against any loss, cost, damage and/or liability (including without limitation, legal fees and disbursements, and 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 maximum permitted Rebate, or as a result of the Purchaser having qualified initially but being subsequently disentitled to the Rebate, or as a result of the inability to assign the benefit of the Rebate to the Vendor (or the ineffectiveness of the documents purporting to assign the benefit of the Rebate to the Vendor) and such amounts shall be deemed to comprise a vendor's lien registerable on title to the Property. If the Vendor determines that the Purchaser is not entitled to the Rebate at any time prior to the Occupancy Date then it shall be entitled to demand and the Purchaser shall pay, an additional deposit equal to an amount that is 20% of the Purchase Price as set out on Page 3 of this Agreement.

13. The Purchaser covenants and agrees that in the event of any amendment, revival, novation, re-instatement of this Agreement, acquisition of Extras or upgrades, or any other action of the Purchaser results in the Rebate or HST Credit not being assignable, in whole or in part, then the Purchaser shall pay to the Vendor on the Closing Date the amount of the Rebate or HST Credit which the Vendor does not receive or become entitled to.
14. The Purchaser covenants and agrees that any breach by it of the provisions as set out in these foregoing sections dealing with HST shall be deemed to be a fundamental breach by the Purchaser and 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 Property as hereinbefore provided or contemplated), and/or may 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, may 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 contract, law or in equity.

INTERIM OCCUPANCY AND FINAL CLOSING

15. The Addendum attached to this Agreement sets out the terms and conditions of the establishment and/or extension of the Closing Date and the Addendum shall prevail over any term or provisions relating to the Closing Date set out in this Agreement, and if any such term or provision exists in this Agreement that shall conflict or be inconsistent with the Addendum, then such terms and provisions shall be deemed to be severed and deleted from this Agreement without affecting the validity and enforceability of the balance of this Agreement. In the event that the Condominium has not been registered as of the Closing Date then the Purchaser shall take occupancy of the Property in accordance with the terms of this Purchase Agreement and the Occupancy Licence. In such event the transfer of title to the Property shall take place on the Closing Date. The Vendor, at its discretion and without obligation, shall be permitted a one-time unilateral right to extend the Closing Date for one Business Day to avoid the necessary tender where a Purchaser is not ready to complete the transaction on the Closing Date. The Vendor shall only be obliged to complete that portion of the Dwelling and/or common elements as are required by the Addendum for the purposes of providing legal occupancy of the Dwelling and the Purchaser shall close on such date notwithstanding that there are portions of the Dwelling or common elements that are not completed on such Closing Date, all without holdback or abatement. In addition to any other documents that the Purchaser must provide the Vendor, the Purchaser agrees that on the Closing Date, the Purchaser agrees to deliver to the Vendor:
 - a) if the Occupancy occurs prior to the Closing Date, a certified solicitor's trust or bank draft payable to the Vendor for the Occupancy Payment;
 - b) if the Closing occurs prior to the Closing Date, a series of six post-dated cheques (or such greater number as the Vendor may require), each in the amount of the said monthly Occupancy Fee, for the next 6 months (or more) commencing the month immediately following the month after Stub Period (as defined herein), together with two copies of the Occupancy License, executed by the Purchaser. The Purchaser shall pay the Vendor occupancy fees for the entire Interim Occupancy in accordance with the terms of the Act and this Agreement;
 - c) a clear and up-to-date execution certificate in respect of the Purchaser's name (and guarantors' name if same is required for the Purchaser's financing of this transaction) 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 or guarantor, then the Purchaser or guarantor shall be obliged to deliver an unqualified statutory declaration of his/her solicitor, confirming that the Purchaser is not one and the same person as the judgment debtor(s) named in the said execution(s) [and shall also provide such other information and documentation as the Vendor's solicitor may reasonably require in order to be satisfied, in the Vendor's solicitor's sole discretion, that the Purchaser or guarantor is not one and the same person as the particular execution debtor(s) named in the outstanding execution(s)];
 - d) an executed electricity and/or gas supply contract or assumption of contract, a hot water tank or heater rental contract, in the Vendor's or Service Provider's form for the provision of a rental hot water tank or heater and/or supply of Property Services (as hereinafter defined) to the Property or any one or more of them, together with a security deposit for the provision of electrical, water and/or natural gas services, as may be required by the service provider(s);
 - e) if the Closing occurs prior to the Occupancy Date, a certified cheque for the occupancy fees in respect of the month of occupancy and, at the discretion of the Vendor, the next month (the "Stub Period");
 - f) an irrevocable direction to the Vendor indicating and confirming the manner in which the Purchaser wishes to take title to the Property, accompanied by the date of birth and social insurance number of each person approved by the Vendor to take title to the Property supported by a copy of their respective birth certificates




(issued by the Department of Vital Statistics), if so requested by the Vendor, and any other documentation, agreements or Authorizations required by the Vendor's solicitors;

- g) if the Occupancy occurs prior to the Closing Date, a copy of a current financing commitment from a bank, trust company, credit union or institutional mortgage lender confirming, without qualification that the Purchaser has been approved for bank financing in an amount equal to the difference between the Purchase Price and the amount of a) the deposits; and b) any other amount that the Purchaser can provide evidence acceptable to the Vendor that he or she will be able to pay on the Closing Date or any other such evidence satisfactory to the Vendor in its sole discretion that the Purchaser has the requisite funds or financial capability to complete the transaction contemplated herein (the "**Financial Information**"). The failure of the Purchaser to provide the Financial Information as required above shall be an event of default by the Purchaser entitling the Vendor to its remedies herein, including, *inter alia*, the termination of this Agreement and the forfeiture of all deposit monies or other monies paid by the Purchaser pursuant to this Agreement;
- h) all HST Rebate Forms, assignments of rebate, HST indemnities, and such other assurances, declarations, affidavits, undertakings (including undertakings to readjust), assurances, covenants, acknowledgments, directions and other closing documents (all in the Vendor's form without amendment) as the Vendor may require in its complete discretion; and,
- i) if the Occupancy occurs prior to the Closing Date, evidence satisfactory to the Vendor that the Purchaser has liability insurance in place with respect to the occupancy of the Property by the Purchaser in an amount of not less than \$2,000,000.00 per occurrence and the Vendor may, in its discretion, require that it be named as additional insured in that policy.
16. The Purchaser acknowledges and agrees that he/she shall be personally responsible for making all arrangements for the supply of Dwelling Services to the Property and that in the event that he/she fails to make such arrangements on or before the earlier of the Closing Date, that the service provider may refuse to provide such utility or service to the Property on or after such date. Notwithstanding that such utility or service may not be provided to the Property on or before the earlier of the Closing Date due to the failure of the Purchaser to arrange for same:
- a) the Purchaser shall close the transaction in accordance with this agreement; and
- b) 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, Occupancy Fees or other adjustments with respect thereto;

save and except if provided in the Addendum to the contrary.

17. After the registration of the Creating Documents, the Vendor's Solicitors shall designate a date as the Closing Date by delivery of written notice of such date to the Purchaser or his Solicitor, as set out in the Addendum. If the Closing Date falls on a day when the relevant Land Registry Office is not open for business, the Closing Date shall be the day next following when the Land Registry Office is open for business. Provided that in no event shall the Closing Date occur more than 12 months after the Closing Date on which the Purchaser took occupancy of the Property save and except as specifically provided for herein or in the Addendum. Save and except if prohibited by the Addendum, the Vendor shall have the right to extend the Closing Date one or more times upon without any requirement of prior notice, and the Purchaser shall not be entitled to any compensation for the extension of the Closing Date. The Purchaser shall adjust for any and all changes to the adjustments after closing within 20 days of request by the Vendor, failing which the default interest provisions for unpaid adjustments shall apply.

SUPPLEMENTARY OCCUPANCY PROVISIONS

18. The following terms and provisions shall apply to the use and occupancy of the Property prior to the Occupancy Date by the Purchaser, namely:
- a) The Purchaser agrees to maintain the Property in a clean and sanitary condition and not to make any alterations, improvements or additions thereto, other than painting, without the prior written approval of the Vendor which may be unreasonably withheld.
- b) From and after the Occupancy Date to and until the Closing Date and continuing thereafter, the Purchaser shall be responsible for all utility, telephone expenses, cable television service, or other charges and expenses billed directly to the occupant of the Property by the supplier of such services.
- c) The Vendor and the Purchaser covenant and agree, notwithstanding the taking of possession, that all terms of this agreement of purchase and sale hereunder continue to be binding upon them and that the Vendor may enforce the provisions of the Occupancy Licence separate and apart from the purchase and sale provisions of this agreement.
- d) It shall be the responsibility of the Purchaser, after the Occupancy Date to insure the personal property of the Purchaser, as well as all contents on the Property of the Purchaser. The Vendor shall not be liable for the Purchaser's loss occasioned by fire, theft or other casualty, unless caused by the Vendor's wilful conduct.
- e) The Purchaser agrees to indemnify the Vendor for all losses, costs and expenses incurred as a result of the Purchaser's neglect, damage or use of the Property or by reason of injury to any person or property in or upon the Property or the Condominium resulting from the negligence of the Purchaser, members of his immediate family, servants, agents, invitees, tenants, contractors and licensees. The Purchaser agrees that should the Vendor elect to repair or redecorate all or any part of the Property as a result of the Purchaser's neglect,

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damage or use of the Property, which shall be deemed to be an event of default by the Purchaser, that the Purchaser will immediately reimburse the Vendor for the cost of doing same, and with the determination of need for such repairs or redecoration shall be at the discretion of the Vendor, and such costs may be added to the Purchase Price.

- f) The Purchaser shall not have the right to assign, sublet or in any other manner dispose of the Occupancy Licence prior to the Closing Date without the prior written consent of the Vendor which consent may be arbitrarily withheld. The Purchaser acknowledges that, if permitted by the Vendor, such assignment will result in the Purchaser owing the Vendor, in addition to the Purchase Price, all amounts equal to all Rebates and HST Credits as the assignment will disentitle the Purchaser to the Rebates and will also pay the Vendor an administrative fee together with all applicable taxes will be payable to the Vendor each time the Purchaser wishes to assign, sublet or dispose of the Occupancy License and is permitted to do so.
- g) The Purchaser shall execute on Occupancy an occupancy agreement, any terms of any advisory/warning clauses forming part of this agreement.

AFTER CLOSING

- a) In the event that after taking Occupancy of the Dwelling, the Purchaser shall complete and/or install any additions and/or improvements such as but not limited to, porches, patios, plantings, paved driveways, pools or hot tubs, curbs or fences which are located within six (6) feet of an external wall or within any area which interfere with the Vendor installing any required services, the Purchaser will remove such addition and/or improvements within five (5) days of written request from the Vendor and prior to the Vendor taking any corrective actions which it is required to take.
- b) In the event that after taking occupancy of the Dwelling, the Purchaser shall complete and/or install any improvements, additions or alterations thereto, including, but not limited to, finishing basement, wallpapering, cabinetry and/or mouldings and/or finishings, porch tiles or finishes, pools or hot tubs the Purchaser shall be required to remove such improvements, additions or alterations at his own expense, in the event that the Vendor shall be required to carry out any repairs or replacements in the Dwelling in the area of such improvements, additions or alterations.
- c) The Purchaser acknowledges that grading and sodding shall be done between June and October (weather permitting and subject to availability of supplies) of any year as per the Vendor's scheduling program. The Purchaser agrees that he shall be solely responsible for watering and general maintenance of sod from the Closing or from the date that sod is laid, whichever shall be later, and the Vendor shall have no obligation in that regard. In the event the Vendor is, for any reason, required to replace laid sod, the Vendor shall not be obligated to do so until payment has been made therefor by the Purchaser and if so replaced, the Purchaser agrees to reimburse the Vendor for the costs and expenses of same as determined by the Vendor, which costs and expenses may be deducted from the Security Deposit at the Vendor's sole, absolute and unfettered discretion. Further, the Purchaser acknowledges that the order of closing of the Property and/or the order of completion or closing of other lots sold by the Vendor is not indicative of the order of sodding of the Property and said other lots.
- d) The Purchaser covenants to occupy the Dwelling forthwith after Closing. The Purchaser agrees not to finish the whole or any part of the basement of the Dwelling for a period of twenty-four (24) months after the Closing or such longer period which is equivalent to the warranty period under the Warranty Act for basement repairs. The Purchaser hereby releases the Vendor from any liability whatsoever in respect of water damage to basement improvements and chattels stored in the basement resulting from water seepage or leakage, including any consequential damages arising therefrom.
- e) The Purchaser acknowledges that the Vendor has a master key for the Condominium and in the event that the Purchaser wishes to change any locks, he may do so, at his own expense, any time after Closing.

CONDOMINIUM MATTERS

- 19. Purchaser acknowledges and agrees that the Property may be subject to without limitation, conditions of draft approval (hereinafter "**Draft Conditions**") one or more Development Agreements, site plan agreements and or subdivision agreements between the Developer and Governmental Authorities and/or the Municipality, notice of which is hereby expressly acknowledged by the Purchaser, and pursuant to which the Developer or the Municipality is responsible at its own expense for constructing and installing all services within the development, which services may include paved roads, sidewalks, storm water retention facilities, retaining walls, curbs, storm and sanitary sewers, street lights, parks, conservation areas, playgrounds, etc. and if the Developer is other than the Vendor, the Vendor shall not be liable in any way to the Purchaser for the manner in which said services are installed or constructed. The Purchaser acknowledges and agrees that it shall be his sole responsibility to review without limitation, the Draft Conditions, any Development Agreements, cost-sharing agreements, site plan agreements or subdivision agreements as hereinbefore described, prior to closing, which the Purchaser hereby agrees to take title subject to. The Vendor shall not be obligated to obtain or register a full or partial release of the Property from or in respect of such agreements, nor shall the Vendor be obliged to have said agreements deleted from title, and the Purchaser shall satisfy himself as to compliance therewith.
- a) The Vendor of the Condominium, in which the Property is situate or their servants or agents may, for such period after Closing as is designated by the Vendor, enter upon the Property at all reasonable hours to enable completion or correction of sodding, fencing, corner lot screens or fences, condominium aesthetic enhancement features, to inspect, repair, complete, or rectify construction, grade and undertake modifications

to the surface drainage, including installation of catch basins, without liability therefor, and the Transfer/Deed may contain such provisions.

- b) The Purchaser acknowledges that construction of the Dwelling may be subject to the requirements of the architect appointed by the Vendor (the "**Vendor's Architect**") and the Purchaser agrees to accept the Property subject to any changes, variations or restrictions now or hereafter imposed by the Vendor or the Vendor's Architect.
- c) The Purchaser acknowledges that the dimensions of the Property set out in this Agreement or on any schedule attached hereto or shown on drawings or plans made available to the Purchaser on site or otherwise are approximate only. In the event the frontage, depth or area of the Property is varied from those specified in the Agreement, or on any schedule attached hereto or shown on drawings or plans made available to the Purchaser on site or otherwise, as aforesaid, or any or all of the forgoing and provided the Property complies with municipal and other governmental requirements including zoning by-laws, the Purchaser agrees to accept all such variations without claim for abatement in the Purchase Price and this Agreement shall be read with all amendments required thereby. In addition to the foregoing, if minor variations of the size of the Dwelling including internal dimensions of any areas are made to the Dwelling the Purchaser shall accept such minor variations without any abatement of the Purchase Price.
- d) Condominium esthetic enhancements such as boulevard treatments, landscaping (including tree planting), entrance features, or corner lot fencing, or fences or retaining walls which may be erected/placed/installed within the Condominium in accordance with municipally approved plans. Such Condominium esthetic enhancements may not necessarily apply to/benefit all dwellings within the Condominium. The erection/placement/installation and/or spacing of condominium esthetic enhancements such as municipal trees and/or privacy fencing are not entitled to any refund/abatement of any sums payable to the Vendor hereunder. In the event this Agreement, any schedule hereto or other matter obligates the Vendor to install or provide any of the features set out herein, such matters will be provided and installed at the times determined by the Vendor and shall not comprise outstanding deficiencies or matters with respect to the completion of the Dwelling, and the Purchaser specifically acknowledges, covenants and agrees that any such features shall be installed at the times determined by the Vendor in its sole and absolute discretion.

ACKNOWLEDGMENTS REGARDING WARNING CLAUSES

- 20. The Purchaser acknowledges that the Draft Conditions and existing and/or future Development Agreements between the Vendor and/or the Developer and the Municipality may require the Vendor to provide the Purchaser with certain notices or warnings including, without limiting the generality of the foregoing, notices or warnings regarding the use of the Property, environmental issues, noise levels from adjacent roadways or otherwise, maintenance of municipal fencing, school transportation and related educational issues, installation of pools, aesthetic restrictions, care of landscaping on the Property and the status of services and works in the development. The Purchaser acknowledges and agrees that the Vendor may be unable, at this time, to provide the Purchaser with all such notices and warnings and same shall be provided in the future and shall be deemed to form part of this Agreement and the Purchaser shall execute all documents, amendments, assurances as required by the Vendor in this regard and such further warnings or acknowledgments shall not affect nor diminish the Purchaser's obligation to complete his/her obligations under this Agreement. The Purchaser acknowledges and agrees that the Vendor and/or Developer may be unable to sell the Property to the Purchaser or obtain the release of securities unless the Purchaser executes such acknowledgments, amendments or assurances, etc., as aforesaid. In the event that the Purchaser fails to execute such acknowledgments, amendments and/or assurances, etc., forthwith upon being requested to do so, such failure or refusal shall be considered a fundamental breach of this Agreement by the Purchaser and the Vendor shall be entitled to its remedies hereunder, including, at its sole option, to terminate this Agreement and upon such termination, all monies paid to the Vendor hereunder shall be forfeited to the Vendor as liquidated damages, not as a penalty, without prejudice to the exercise of any other remedy available to the Vendor, and this Agreement shall be at an end, and the Purchaser shall not have any further rights hereunder.
- 21. Purchasers are advised that despite the inclusion of noise attenuation features within the development area and within the individual building units, noise levels will continue to increase, occasionally interfering with some activities of the building's occupants.

COMPLETION OF GRADING AND MUNICIPAL SERVICES

- 22. a) The Vendor, its successors, assigns and all persons authorized by the Vendor, including, without limitation, the Municipality or any other governmental authorities having jurisdiction, shall have free access to the Dwelling and Property at all reasonable hours in order to make inspections and do such work or repairs as they may deem necessary. The Vendor, and all persons authorized by the Vendor, shall have a licence for a period of 10 years from the later of the Closing Date to enter into, over, along or upon any part of the Property, without being deemed to have committed a trespass, for the purpose of enabling, without limitation, the completion or correction of sodding and grading, and the installation, maintenance and/or repair of any municipal services or utility services, and/or for the purpose of effecting any remedial and/or corrective measures to the Property as may be required by the Municipality, any utility, or any other governmental authority or bonding company, or other relevant authority having jurisdiction in this regard.
- b) The Purchaser hereby acknowledges and agrees that the final grading of the Property may not be completed, nor a POTL grading certificate in respect of same issued by the Closing Date, yet the Purchaser agrees to nevertheless complete this transaction on the Closing Date, upon the Vendor's undertaking hereinafter set out, to complete the grading of the Property in accordance with municipal requirements as soon as reasonably possible after the Closing Date, weather and soil conditions and the availability of labor, equipment and materials permitting. The Vendor, by this Agreement, hereby undertakes to complete (if not

already completed), the grading of the Property in accordance with the provisions of the preceding sentence, and the Purchaser shall not request or call for any further documentation or assurances pertaining to this undertaking in respect of grading, from the Vendor, the Developer or the Vendor's solicitors. The Purchaser acknowledges and agrees that the engineering data and/or final approved grade in respect of the Property may not be finalized as of the date of execution of this Agreement, and accordingly the Vendor may be required to construct the Dwelling with a walk-out basement and/or deck or in the alternative may not be able to provide a walk-out basement and/or deck if specified in this Agreement, but the Purchaser shall be nonetheless obliged to complete this agreement. In the event that any additions and/or improvements are made to the Property or abutting road allowances by the Purchaser and/or its agents or contractors after closing such as, but not limited to, the installation of porches, decks, pools, spas, patios, plants, shrubs, trees, paved driveways or fences are so located so as to alter or affect the grading and/or drainage patterns of the Property, street sight lines, any easement granted or contemplated being granted to third parties or the Vendor and/or affects the final inspection and/or assumption of the development by the Municipality and/or the return of any security to the Developer or Vendor, then the Purchaser agrees to remove such additions and/or improvements at his own expense, forthwith upon the Vendor's request, failing which the Vendor may remove same at the Purchaser's sole expense and the Vendor shall be permitted to register and maintain a vendor's lien for such costs against the Property. The undersigned hereby acknowledges that complete engineering data in respect of the final grading of the Property as approved by the Municipality may not, as yet, be complete, and accordingly, the Purchaser agrees to accept the Property subject to any grading requirements or other requirements imposed by the Municipality.

- c) Notwithstanding the foregoing to the contrary, the Vendor or anyone delegated by it shall have the right to enter upon the Property during the rectification period as set out above in order to, without limitation, change or rectify grades or drainage patterns, and/or carry out any sodding and/or restoration and/or re-grading work required by the Development Agreements (as such term is defined herein) and/or Governmental Authorities and may remove any fences, installations, landscaping, obstructions or signs situate on the Property, without liability of any kind, if the foregoing provisions of this paragraph are not observed by the Purchaser. The Purchaser acknowledges that the Municipality and any Governmental Authorities having jurisdiction, shall have the right to enter upon the Property and Lands for such purpose in the event the Vendor and/or Developer and/or the Condominium fails to satisfy its obligations in respect of the foregoing provisions of this paragraph. The Purchaser further acknowledges that the transfer of title to the Property may contain a right of re-entry in favor of the Vendor and/or the Municipality and/or any other Governmental Authority having jurisdiction as aforesaid.
- d) Title to the Property may be subject to Development Agreements (as hereinafter defined) as well as restrictions, and/or covenants may be required to be given by the Purchaser on closing, preventing any changes being subsequently made to any exterior colour, materials, windows, treatment and/or cladding material of any exterior component of the Dwelling for any period of time after closing and as well as preventing the alteration or removal of any trees, vegetation, fencing, berm, retaining wall and/or other exterior element and the parties acknowledge that such items may be controlled by the Vendor, Developer, third party and/or any other governmental authority having jurisdiction for any period of time after closing. The Development Agreements may also contain important warning clauses affecting the use and enjoyment of the Property and the Purchaser is strongly advised to review same. The Purchaser covenants and agrees to abide by and comply with the terms and conditions of the Development Agreements, architectural controls, restrictions and covenants and agrees to indemnify and save the Vendor and Developer harmless from and against any losses and all damages, suits costs, expenses or liabilities incurred by the Vendor and/or Developer as a result of the Purchaser not complying with or defaulting under (in any way and with negligence not being required) with the terms and provisions of the such Development Agreements. In addition, the Purchaser covenants and agrees not to dump any materials, sod or other debris, garbage and/or landscaping or construction materials upon any other lands owned by the Vendor, Developer and/or the Municipality and the Purchaser shall reimburse the Vendor on closing or thereafter, for the costs of removing such materials and dumping same, including inter alia, haulage costs, labour costs and/or any other costs, expenses or fines incurred by the Vendor or Developer as a result of the Purchaser breaching this covenant, and the Vendor shall be entitled to register and maintain a vendor's lien for such costs.
- e) The Purchaser acknowledges and agrees that the filing of the 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 the Addendum, constitute complete and absolute acceptance by the Purchaser of all construction matters, and the quality and sufficiency thereof including, without limitation, all mechanical, structural and architectural matters. Acceptance of construction and siting of the Dwelling and/or grading of the POTL by the Municipality or governmental authorities shall conclusively constitute acceptance by the Purchaser. The Purchaser acknowledges that the road allowance or private road fronting or flanking the Property may have one or more postal boxes, CATV boxes, telephone boxes, fire hydrants and/or hydro-electric transformers, hydro poles, sidewalks, landscape furniture, etc., as required by the Municipality and the Purchaser agrees to accept same where located, notwithstanding that same may not be shown on any sales material, site plan, community property plan or brochures.

MAINTENANCE OF SOD AND LANDSCAPING

23. The Purchaser shall be solely responsible for the watering and general maintenance of the sod, tree, shrubs any other landscape plantings placed on the Property save and except as otherwise set out in the Disclosure Statement and any adjacent or abutting unpaved road allowances and/or boulevards from and after the closing date, or from the date that the sod is laid or the trees or shrubs or any other landscape plantings are planted, whichever date is later, and the Vendor and/or Developer shall have no obligation in that regard. In the event that the Vendor is required to water and/or replace laid sod, trees, shrubs or any other landscape plantings as a result of the Purchaser's default of the aforesaid obligation, then the Vendor shall not be obligated to do so until payment has been made therefor by the

Purchaser. Purchasers of POTLs upon which the Vendor or Developer has installed landscaping in accordance with the final approved plans for the Condominium shall be obliged to maintain and water and replace such soft landscaping and vegetation and shall not alter or remove any such soft landscaping materials or vegetation unless replaced by soft landscaping materials and vegetation in keeping with the approved landscaping plans for the Condominium.

DRIVEWAY PAVING

24. The Purchaser acknowledges that settlement of the driveway will occur and, as a result, the driveway may not be paved until after the Closing Date. The Vendor covenants and agrees to pave the driveway of the Property within 24 months after the Closing Date. The Vendor will notify the Purchaser prior to the date on which paving is to be completed and the Purchaser agrees to ensure that the driveway is free and clear of all vehicles and other obstructions to facilitate completion of such work. After paving has been completed, the Purchaser acknowledges that settlement of the driveway may still occur. The Vendor shall have no obligation to complete any further work on the driveway after paving has been completed notwithstanding further settlement. The Purchaser acknowledges and agrees that the Vendor shall not be required to give a separate undertaking to the Purchaser on the Closing Date to complete the driveway and the Purchaser shall not be entitled to a holdback of any amount due and payable to the Vendor on the Closing Date as security for the Vendor's obligations in this regard.

LANDSCAPING, RETAINING WALLS, FENCES, BERMS AND STRUCTURES OR FEATURES

25. The Purchaser agrees that in the event that any retaining wall, fence, berm and/or similar or other structure are built on the Property, the Purchaser shall be solely responsible for the repair and maintenance of same save and except where the Declaration makes this the responsibility of the Corporation. Where the Purchaser is obliged to make such repairs and undertake such maintenance, the Purchaser shall indemnify and save harmless the Vendor, Developer and any Governmental Authorities from all damages or costs associated with same and the Purchaser agrees, at the request of the Vendor, to execute such additional assurances in this regard as may be required by the Vendor and to have same registered on title by the Vendor if required by Vendor at the Vendor's option.

Where any portion of any fence is within 12 centimetres internally or externally of the Property line, such fence shall be deemed not to be an encroachment at that point (the "**Permitted Encroachment**") and the Purchaser agrees to accept title to the Property and to complete the sale contemplated herein, without abatement of the Purchase Price. If any portion of any fence is not deemed to be a Permitted Encroachment (an "**Unpermitted Encroachment**") then the Purchaser shall complete the transaction herein either upon the Vendor's undertaking to take all reasonable lawful steps to remove the Unpermitted Encroachment; or, at the Vendor's sole option, upon an abatement in the Purchase Price, such abatement to be calculated by the Vendor, in its discretion, acting reasonably.

As of the date of this Agreement, the final grading plan relating to the Land or Property may not have been completed by the Vendor or approved by the Municipality. Consequently, the Purchaser acknowledges and agrees that the grading of the Land may require the use of retaining walls on the Land or on adjoining properties. The Purchaser acknowledges and agrees that the Vendor shall have the right to construct such retaining walls without notice to the Purchaser and without compensation or abatement to the Purchase Price and the Purchaser agrees that he shall be responsible for maintaining the retaining wall on the Land from and after the Closing Date. In the event that the Purchaser fails to comply with this obligation, the Purchaser shall be responsible for all damages and injuries which may result. In addition, the Purchaser acknowledges and agrees that the Vendor may construct any fences and/or berms on or near the Lands, as may be required.

TARION WARRANTY AND MODIFICATION OF PLANS, SPECIFICATIONS AND FINISHES

26. The Vendor agrees to erect the Dwelling upon the Property generally in accordance with plans and specifications already examined by the Purchaser and as attached to this Agreement (the "**Plans**"). Provided however that the Purchaser acknowledges and agrees that decor, finishes, furniture, improvements, mirrors, wall coverings, floor coverings, and window coverings of the model home are for display purposes only, are not included in the Vendor's standard finishes and are not included in the Purchase Price. The Purchaser acknowledges that the area of the Dwelling purchased hereunder, as represented or referred to by the Vendor or any sales agent, is approximate only, and is measured in accordance with the applicable Tarion Bulletin 22 standard for homes of this classification. Note: actual useable floor space may vary from the stated floor area. Accordingly, the Purchaser hereby confirms and agrees that all details and dimensions of the Dwelling purchased hereunder are approximate only, and that the Purchase Price shall not be subject to any adjustment based upon square footage, net floor area or otherwise. In addition the Purchaser acknowledges and agrees that the ceilings may be dropped below standard heights and walls may be modified or bulk heads or mechanical spaces installed to accommodate mechanical systems thereby affecting the useable space in the Dwelling. Therefore the Vendor and the Purchaser agree as follows:
- a) The parties confirm and acknowledge that Tarion requires the Vendor to provide the Purchaser with a New Homeowner Information Package (the "**Package**" or the "**HIP**"), or electronic access to such HIP, at or before the pre-delivery inspection (the "**PDI**") of the Dwelling before the Occupancy Date and the Purchaser agrees to sign a Confirmation of Receipt for the same on receipt of the Package and/or electronic access to the Package being provided. The HIP or information on same is also available by contacting Tarion or obtaining same from their website at www.Tarion.com. The Purchaser shall have the right to designate a representative to undertake the PDI on his/her behalf without detracting from the Purchaser's right to conduct or be present when the PDI is being undertaken. The Purchaser and/or his or her designate, shall meet the Vendor's representative at the time designated by the Vendor prior to the Occupancy Date, to undertake the PDI of the Residential Dwelling and to list all items remaining uncompleted at the time of such inspection together with all mutually agreed deficiencies with respect to the Residential Dwelling, on the Tarion Certificate of

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Completion and Possession and/or such form as may be prescribed by Tarion (the "PDI Form"). The said Tarion certificate and/or PDI Form shall be executed by both the Purchaser and the Vendor's representative forthwith after such inspection.

- b) The Purchaser further acknowledges and agrees that any warranties of workmanship or materials, in respect of any aspect of the construction of the Dwelling, whether implied by this Agreement or imposed by law or in equity, or by any statute or otherwise, shall be restricted to only those warranties deemed to be given by the Vendor pursuant to the ONHWPA, and shall extend only for the time period (and in respect of those items) stipulated or covered by ONHWPA. The Purchaser is advised to read the terms of the warranty as set out in the HIP carefully so that he/she understands what is included and/or excluded from such warranty and the Purchaser acknowledges and agrees that his/her only remedy shall be to pursue any claim as against the Vendor pursuant to the ONHWPA and its procedures and the Purchaser agrees that he/she shall not have, maintain, pursue, prosecute, etc., any claim against the Vendor in contract or at common law with respect to the subject matter of this agreement and/or warranties provided hereunder and shall not make, file, prosecute or otherwise advance any claim against the Vendor in the courts in this regard and this covenant may be plead as estoppel in this regard. Without limiting the generality of the foregoing, the Purchaser hereby releases the Vendor from any liability whatsoever in respect of water damage caused to improvements of, and chattels stored in, the Dwelling, and acknowledges and agrees that the Vendor shall not be liable or responsible for the repair or rectification of any damages to any exterior areas resulting from ordinary settlement, including the settlement of patio stones or sodded areas, nor for any damage to interior household improvements, chattels or decor caused by material shrinkage, twisting or warpage, nor for any secondary or consequential damages whatsoever resulting from any defects in materials, design or workmanship related to the Dwelling, and that the Vendor's only obligation shall be to rectify any defects pursuant to the terms of this Agreement and Tarion's warranty. The Purchaser acknowledges that any Third Party Work (as hereinafter defined) whether or not carried out by trades or subtrades employed by the Vendor shall be deemed to be work contracted directly by the Purchaser with the Vendor acting as agent for the Purchaser and as such, the Third Party Work shall not be covered by the Tarion warranty. The Purchaser covenants and agrees not to enter into any agreement or arrangement with any trade or subtrade employed by or under contract with the Vendor and/or any of its contractors, subcontractors and/or agents in respect of any work on the Dwelling. The Purchaser covenants and agrees not to undertake any renovation of finishing work in respect of the basement of the Dwelling for a period of 30 months after the Closing Date and in the event that the Purchaser does undertake such work, then the Vendor shall be relieved of any and all responsibility to restore such work or finishes in the event that the Vendor has to remove same in order to complete any warranty work and the Purchaser shall indemnify and save the Vendor harmless from and against any and all costs incurred by the Vendor in removing such finishes in order for the Vendor or its agents to be able to complete such warranty work.
- c) The Vendor shall complete the exterior landscaping or exterior building elements of the Property and Dwelling as soon as reasonably practicable, but the failure of the Vendor to complete the exterior landscaping or building elements, on or before the Closing Date or the failure of the Developer to complete any element on the Lands, Subdivision and/or Property, shall in no event entitle the Purchaser to refuse to take possession of the Dwelling and/or to close the within transaction on the Closing Date or to fail to remit to the Vendor the entire amount of the Purchase Price and any other monies required to be paid by the Purchaser hereunder, or to maintain any holdback of any part of the Purchase Price or any other monies due to the Vendor, provided that the Vendor has complied with the occupancy requirements of the Addendum. The Vendor hereby undertakes to complete the Dwelling and all unfinished work or improvements thereto in accordance with this Agreement, unless same affects the ability of the Dwelling to be legally occupied and in such event the terms and provisions of the Addendum shall prevail. The Purchaser agrees in such event to close the transaction, notwithstanding that there remains, without limitation, grading, landscaping or other exterior work or interior work to be completed, without any hold back of any part of the Purchase Price, on the Vendor's undertaking given to complete the Dwelling and all improvements to the Property. The Purchaser shall not hold the Vendor or the Municipality and/or any other Governmental Authorities and/or any of their respective agents liable for any damages, charges or inconvenience arising from, or in connection with the completion (or non-completion) of any item, including but not limited to boulevard sodding, sidewalks, driveway approach, paving, fencing, final POTL grading and/or POTL sodding.
- d) The Purchaser acknowledges and agrees that the Vendor may, from time to time, as required by it in its discretion and/or by any governmental authority having jurisdiction or any other rights with respect to the Property, change, vary or modify the plans and specifications pertaining to the Dwelling and Property, (including architectural, structural, engineering, landscaping, grading, mechanical, site service or other plans) from the plans and specifications existing at the inception of the project, or as they exist at the time 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 reversing the layouts of the Dwelling or changing the elevation/facade of the Dwelling. The Purchaser shall have absolutely no claim or cause of action whatsoever against the Vendor or its agent(s) for any such changes, variances or modifications. The Vendor shall advise the Purchaser of the changes as soon as reasonably possible about the amendments and alterations. The Purchaser also acknowledges and agrees that architectural and/or engineering control of exterior elevations, driveway construction, boulevard tree planting, landscaping, corner POTL fencing (including the location of such corner POTL fencing), exterior colour schemes, or any other matter external to the Dwelling or Property designed to enhance the aesthetics of the area in which the Property is situate (the "Requirements"), may be imposed by the Municipality or any other Governmental Authority and the Purchaser agrees to take occupancy and title to the Property subject to the Requirements. In the event the Vendor is required by any Governmental Authority to construct, alter, amend or change, pursuant to such Requirements, the exterior elevation for the Property and/or Dwelling other than as shown on the schedules to this Agreement or specified herein or is required to alter or modify the driveway, building façade or elevation, internal road or other hardscape installation, construction or location, boulevard tree planting or landscaping plan for the Dwelling or Property (all of which is hereinafter referred to as the "Amended Plans"),

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the Purchaser hereby irrevocably authorizes the Vendor to complete and construct the Dwelling and Property in accordance with the Amended Plans and the Amended Plans shall be the approved plans for the purposes of the Purchaser's obligation to complete this Agreement. The Vendor shall have the right to construct the Dwelling on a reverse mirror image plan, including reversal of the interior floor layout and other minor modifications and the Purchaser agrees to accept such reversal and/or modification absolutely without any right of abatement of, or set-off against, the Purchase Price, in full satisfaction of the Vendor's obligations herein. The Vendor shall have the right to alter, modify and/or substitute other materials for that provided for in the Plans, provided that such material is of substantially equal or better quality than the material in the Plans, as determined by the Vendor acting reasonably. With respect to any aspect of construction, finishing or equipment, the Vendor shall have the right subject to the requirements of TARION or the provisions of the ONHWPA, without the Purchaser's consent, to substitute materials, designs and/or installations, for those described in this Agreement, any schedule of finishes or in the plans or specifications, provided the substituted materials, designs and/or installations are in the judgment of the Vendor, whose determination shall be final and binding, of equal or better quality or as may be required as a matter of law or any applicable building, fire, plumbing and/or electrical code or regulation. References to model types or model numbers in any schedule of finishes or Extras addendum or agreement refer to current manufacturer's models as of the date of this agreement and may change without notice and the Vendor shall be entitled to replace with the manufacturer's or alternate manufacture models that are of a similar size, style, design and quality. The Purchaser acknowledges and agrees that finishing materials contained in any model suites or sales office displays including but not limited to substrates, floor and wall coverings, broadloom, furniture, electrical fixtures, window coverings, flooring, upgrade cabinetry, staircases, railings, appliances etc. may be for display purposes and may not be of the same grade or type, or may not necessarily be included in the dwelling unit purchased herein. Purchasers are advised that any ceiling height set out in this agreement will be measured approximately from the upper surface of the floor to the underside of the ceiling structure, provided however that various areas of the Dwelling may contain (or be subject to) ceiling bulkheads and/or dropped ceilings, in order to facilitate the installation of structural components, mechanical and HVAC systems and/or ductwork, and accordingly in those areas of the unit that are subject to said bulkheads and/or dropped ceilings the Vendor shall be entitled to reduce the overall ceiling height accordingly and the Purchaser covenants and agrees to accept such situations and/or alterations. The Purchaser acknowledges that any room dimensions as shown on any plans attached to this agreement or otherwise are approximate and may vary based on the construction requirements of the development in which the Property is situate and the Purchaser covenants and agrees to accept such variations and/or alterations. The Purchaser acknowledges, confirms and agrees that 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 based on the permitted Tarion method of area calculation. The Purchaser shall have no claim against the Vendor for any changes, variances, alterations, amendments and/or modifications as permitted in this Agreement nor shall the Vendor be required to give notice thereof. The Purchaser hereby consents to any such alterations, variances, amendments and/or modifications and agrees to complete the sale notwithstanding same. The Purchaser shall have no claim against the Vendor for any such changes, variances, alterations, amendments or modifications, etc., nor shall the Vendor be required to give notice thereof. The Purchaser hereby consents to any such alterations and agrees to complete the sale notwithstanding any of the foregoing and that none of these matter shall be considered any material change.

- e) 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 Dwelling is not completed on or before the Closing Date or any extension thereof as hereinbefore contemplated, for any reason except for the Vendor's willful neglect, or in the event the Purchaser cannot take possession of the Dwelling on Closing Date by reason of any fire damage or other hazards or damages whatsoever occasioned thereto, constituting an event of Unavoidable Delay (as defined in the Addendum), then subject to the terms of the Addendum to the contrary, Vendor shall not be responsible or liable for reimbursing the Purchaser for any costs, expenses, or damages suffered or incurred by the Purchaser as a result of such delay or damage, and specifically shall not be responsible for any costs and expenses incurred by the Purchaser in obtaining alternate accommodation pending the completion of construction of the Dwelling or the rectification of the damage, nor for any costs incurred in having to store or move the Purchaser's furniture or other belongings pending such completion or rectification work.
- f) The Vendor shall have the right to enter upon the Dwelling for a period of eight (8) years after the completion of the transaction set out in this Agreement, as required by the Vendor in its complete discretion, in order to complete and/or rectify outstanding items identified in the PDI Form or any other list prescribed by Tarion and the Vendor agrees to complete and/or rectify same within a reasonable time after Closing (or some other date as prescribed by Tarion), having regard to the availability of equipment, materials and labour. The failure or refusal by the Purchaser to provide access to the Property and/or the Dwelling situate thereon by the Vendor or its workmen, servants, agents or contractors following reasonable notice by the Vendor, shall relieve the Vendor of any obligation to complete or rectify any items of work that may be outstanding and otherwise required to be completed by the Vendor pursuant to the provisions of this Agreement.
- g) The Purchaser agrees that in no event shall the Purchaser be entitled to obtain possession of the Dwelling and Property unless and until the Purchaser and/or his/her designated representative has completed the pre-delivery inspection and executed the said PDI Form. In the event that the Purchaser and/or his/her designated representative has omitted or refused to execute the said PDI Form prior to the Occupancy Date, and the Vendor has duly attended at the Dwelling for the purposes of completing the said PDI Form and to inspect the Dwelling, the Vendor shall have the unilateral right and option of either completing this transaction and refusing to allow possession of the Dwelling by the Purchaser until such PDI Form has been duly executed, or of terminating this Agreement, whereupon all Deposits and monies paid or payable in respect of Extras, together with all interest accrued thereon at the prescribed rate, 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.

- h) It is expressly understood and agreed that the Dwelling will be separately metered for utilities, including electricity, water and gas services, and accordingly the consumption of electricity and gas (as well as cable television, internet and telephone charges), shall be borne and paid for by the Purchaser from and after Occupancy Date. Water shall be bulk metered and Purchasers shall pay their pro rata share for consumption of water as part of their monthly common element expenses.
- i) The Purchaser covenants and agrees to pay to the Vendor all amounts to correct and remedy all damage caused by the Purchaser or those for whom he is in law responsible to any services installed within the Property, which services shall, without limitation, include survey stakes, landscaping, trees, planting, curbs, curb cuts, streets, roads, street signs, street lighting, sanitary and storm sewers and any underground services installed by or on behalf of any public or private utilities.
- j) It is understood and agreed that the Purchaser is not entitled to perform any work on the Property prior to Closing without the Vendor's written consent and in the event that such consent is obtained, the Purchaser must obtain at its expense, and without restriction, any applicable building permits for the subject work at the Purchaser's sole cost and expense. It is further understood and agreed that such work shall not be warranted by Taron or the Vendor or any other party related to the Vendor and that the Vendor shall not be responsible for any delay, costs and/or penalties arising as a result of the delay by the Purchaser in completing such permitted work on or before the scheduled Closing Date.
- k) Further, in the event the Vendor determines that it needs to alter the grade of the Dwelling for any reason, than as depicted in the Plans, and as a result of such change in the elevation, the Vendor needs to install a step or series of steps to any entrance to the Dwelling or garage and this affects the interior dimensions of the Dwelling or garage, then the Purchaser agrees to accept such change in grade and the change in the usable interior space in the garage and/or Dwelling caused by the installation of steps and shall complete this transaction without any abatement in the Purchase Price. The Purchaser acknowledges and agrees that if due to grading or other requirements, as determined by the Vendor, at its sole, absolute and unfettered discretion, that it cannot or will not build a side door and/or door from the garage with direct access to the Dwelling, the Vendor need not build such door(s) and the Purchaser covenants and agrees to accept the Dwelling without such door(s) and the Purchaser shall not be entitled to any compensation or abatement of the Purchase Price.
- l) The Purchaser hereby acknowledges that complete engineering data in respect of the Municipally approved final grading of the Property may not, as yet, be complete and accordingly, it may not be possible to construct a Dwelling with a walk-out basement, look-out or rear deck where so indicated in this Agreement, or vice versa. In the event this Agreement calls for a walk-out basement, look-out, or rear deck and such is not possible or reasonable in the Vendor's opinion or in the event this Agreement does not call for a walk-out basement, look-out or rear deck and such is required, pursuant to final approved grading and engineering plans, the Purchaser shall accept a credit in the Purchase Price, or, pay the additional cost involved in constructing such walk-out basement, look-out or rear deck, as the case may be (such costs shall be absolutely determined by the Vendor).
- m) The Purchaser acknowledges that certain lots within the Condominium may, at the Vendor's sole, absolute and unfettered discretion, require catch basins in the rear yard and associated leads, drainage systems, weeping pipe/sump pump systems, retaining walls, fencing, landscaping and other subdivision enhancement features, and the purchaser shall maintain all such items in proper working condition. Additionally, the Purchaser is advised that electricity transformers, street light piles, hydrants and other utility infrastructure will front onto or be located within certain lots (including the Property) within the Condominium. The pump systems, retaining walls, fencing, landscaping and other subdivision enhancement features, and that electricity transformers, street light poles and hydrants required pursuant to the municipally approved plans.
- n) The garage to the dwelling, the Purchaser acknowledges that such feature is subject to the specific grading requirements of the lot and, at the time of executing this Agreement, the Vendor does not yet know whether it will be necessary to construct stairs from the garage to the dwelling and, if so, the number of steps that will be required. The Purchaser acknowledges that, depending upon the location of the access and the number of steps required to be constructed, the presence of stairs in the garage may reduce the number of cars that can be accommodated in the garage. In the event that access can be constructed with two or fewer steps, the access and stairs shall be constructed by the Vendor without notice to the Purchaser. In the event that access can only be constructed with three or more steps, the Vendor shall advise the Purchaser in writing and the Purchaser shall have seven days from receipt of such notice to advise the Vendor in writing whether or not the Purchaser wants the Vendor to construct such stairs and access. In the event that the Purchaser does not respond to the Vendor in writing within seven days, the Purchaser shall be deemed to have advised the Vendor that it wants the Vendor to construct the access and stairs, regardless of the number of steps required to be constructed and regardless that the number of steps so constructed may reduce the number of cars that can be parked in the garage. In the event that the Purchaser instructs the Vendor not to construct the access, the Purchaser shall not be entitled to any compensation or abatement to the Purchase Price.
- o) The designation of door swings, including entrance doors and doors from the garage to the interior of the Dwelling, if any, in any schedules attached hereto or sales brochures and other sales aides are conceptual only and are subject to modification without prior notice at the sole discretion of the Vendor.
- p) The Purchaser acknowledges and agrees that attic hatches or access points may be located within any location determined by the Vendor in its sole discretion, including without limitation, within any hallway, room, closet or interior wall. The location of mechanical installations may not be shown (or not shown, as the case may be) on sales documentation and will be located in accordance with approved plans and/or good construction practice and may result in room size or garage size reduction caused by the mechanicals being

installed. The Purchaser acknowledges being advised by the Vendor that the Vendor has experienced a high rate of theft of air-conditioning units when they are installed prior to closing. Accordingly, the Purchaser acknowledges that if the Agreement herein calls for the Vendor to install an air-conditioning unit, the Vendor has right to install that unit, in accordance with the Agreement, within seven (7) days after the Closing, weather permitting. The Purchaser shall not be entitled to any holdback on account of the Purchase Price notwithstanding that the air-conditioning unit is not installed at the Closing. Notwithstanding the foregoing, in the event that the Purchaser requires the air-conditioning unit to be installed prior to Closing by way of separate written request addressed to the Vendor's solicitor and the Purchaser acknowledges that the Purchaser shall assume all liability for the air-conditioning unit in the event that it is stolen after its installation prior to the Closing, and the Vendor shall not be obliged to replace same nor shall there be any adjustment in the Purchase Price with respect thereto.

- q) In the case of the purchase of a Townhome, the Purchaser acknowledges that the concept plans displayed in the sales office and/or in promotional brochures or media (including any websites), do not necessarily represent any specific block to be built by the Vendor; the Vendor has not artistically rendered all block scenarios and combinations of model types available; final block plans will feature similar but not necessarily identical architectural details; variances from block to block will reflect, amongst other things, the number of units in respective blocks, final siting combinations of actual model types within respective blocks, roof designs that evolve in conjunction with the combination of various model types constituting specific blocks, unit stepping due to grading within respective blocks and the location of required party walls and firewalls per respective block plan.
- r) Where a dwelling type has a sunken foyer, landing or hallway leading to a front porch (at the front door entry), the ceiling area below the porch slab and other relevant areas will be reduced and this height may vary up or down, caused by the number of risers from the main floor to the dropped landing, as per applicable plan. Notwithstanding that the sales aids, such as a brochure, plans or sketches may refer to these areas as cold rooms, storage areas, cantinas or fruit cellars, they shall be treated and referred to as crawl space, notwithstanding that the Purchaser may be desirous of using this space for other purposes. The Purchaser hereby acknowledges these facts and accepts the Dwellings as built and will make no claims whatsoever relevant thereto. Furthermore, any reference to ceiling heights in this Agreement, the schedules attached hereto or in sales material, shall mean the approximate height and such heights will be reduced by sound attenuation features, finishes of floors and ceilings and installations such as bulkheads, etc.
- s) The Purchaser acknowledges and agrees that drainage holes may be required, as determined and where required by the Vendor, on all or any of the exterior finishing and/or cladding of the Dwelling.

RENTAL EQUIPMENT

Unless expressly provided in this Agreement, the hot water heater/tank and related equipment, and any other equipment included in any schedule attached hereto as rental equipment (the "Equipment") for the Dwelling, if any, is not included in the Purchase Price and shall remain chattel property. The Purchaser acknowledges that (i) the Equipment may be non-owned (ii) the terms governing the lease/rental for the Equipment will be provided by the Vendor prior to closing and the Purchaser may contain a buy-out option allowing the Purchaser to purchase the Equipment if desired. If any provider of the Equipment no longer rents the Equipment and if arrangements are not made with another supplier for the installation of the Equipment on rental basis, then notwithstanding anything to the contrary in this Agreement, the Purchaser shall pay, as an adjustment on closing, the cost of the Equipment, such cost to be determined by the Vendor. The Purchaser acknowledges and agrees that it shall only utilize the hot water heater/tank supplied by the Vendor within and upon the Property and the Purchaser is prohibited from installing or utilizing any other hot water heater/tank, without the Vendor's prior consent.

FINISH SELECTION AND EXTRAS

27. a) Wherever in this Agreement the Purchaser has the right to choose colours or materials, he shall do so within seven (7) days after notification by the Vendor and the Purchaser shall make his selection of such colours and/or materials, whatever the case may be, from the Vendor's samples at the Vendor's sales office for the subject project (or such other location that may apply from time to time) and list same on the Vendor's colour selection form.
- b) In the event that the Purchaser has the right to choose colours or materials, he shall do so within seven (7) days after notification by the Vendor and the Purchaser shall make his selection of such
- c) The Purchaser acknowledges and agrees that insofar as the wood finishes, marble, stone, carpeting, tiles, kitchen cabinetry or other manufactured finishing materials installed within the Dwelling are concerned: (i) the colour, texture and/or shading of such wood finishes, carpet, tiles, kitchen 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; and (ii) the colour, finish and/or grain of wood and stone products may vary slightly from that of the wood or stone 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 and/or grain even within the same POTL or section of wood or stone. 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, tiles, kitchen cabinetry, manufactured finishing materials or wood or stone products so installed or any other relief as a result of the variations hereinbefore described or contemplated. The Purchaser acknowledges and agrees that all light coloured materials, especially flooring, may be subject to fading or yellowing after use or exposure to sunlight and such fading or yellowing will not be covered by any warranty. The Purchaser further acknowledges that light coloured and white carpeting may be subject to discolouring at walls and sub-floor joints due to the filtering process that occurs with forced air

heating, generally caused by pollutants and candles and both exterior and interior air quality and is not covered by any warranty provided for herein.

- d) The Purchaser covenants and agrees that he/she shall pay the Vendor in advance, (unless otherwise agreed in writing), for any Extras and the applicable HST and other taxes thereon ordered by the Purchaser and agrees that such payment shall be non-refundable in the event that this transaction is not completed due to any default hereunder by the Purchaser, and the Vendor may deduct the cost of such Extras, (as well as applicable HST and other taxes thereon) if not already paid for, from any deposit monies which may otherwise be refundable. In the event that for any reason the Extras are not installed by the Vendor prior to closing, the Vendor shall be entitled to refund all or part of monies paid as appropriate and this shall be accepted by the Purchaser as full and final settlement of any claim by the Purchaser with respect to the Extras, upgrades or changes which remain incomplete as aforesaid.
- e) In the event that the Purchaser shall not have made his selection within ten (10) days after notification by the Vendor or an extended date acceptable to the Vendor, then the Vendor shall have the option of choosing the colours and materials for and on behalf of the Purchaser and the Purchaser agrees to same.
- f) In the event that the Purchaser has installed or has requested the Vendor to install a different floor covering than that which the Vendor would normally install in the dwelling, then the Purchaser agrees that if any defects should come to light for which the Vendor is normally responsible and repairs to which require the removal of the said floor covering, the Vendor will not be responsible to effect such repairs. For purposes of this Agreement "floor covering" shall mean any type of finished floor covering which is normally placed on the sub-floor and without limiting the generality of the foregoing, shall include tile, hardwood, marble, terrazzo, and carpet.

NO ACCESS UNTIL CLOSING

28. The Purchaser hereby acknowledges and confirms that he shall not be allowed without the specific written consent of the Vendor, (which consent may be arbitrarily withheld by the Vendor) access to the Property, for any purpose whatsoever. Once such right of access is exercised by the Purchaser with consent as aforesaid, he agrees to comply with all regulations and requirements imposed by any governmental authorities or imposed by the Vendor which may prevent, restrict or regulate such access due to health, safety or other governmental requirements or policies. The Purchaser further acknowledges and agrees that any access to the Property shall be at the Purchaser's sole risk and the Purchaser hereby forever discharges and releases the Vendor, its successors and assigns, agents, employees and contractors from any and all damages, actions and claims whatsoever that the Purchaser may have as a result of personal injury or property damage occasioned by entering onto the Property, whether such entry was with or without the Vendor's express written consent. If permitted onto the Property, the Purchaser shall not enter the Property unless accompanied by a representative of the Vendor and the Purchaser shall be responsible to provide and wear all such protective headwear and footwear and any other equipment or clothing as required pursuant to the Occupational Health and Safety Act and/or any successor or other legislation and its regulations and the Purchaser agrees to indemnify and save the Vendor harmless from and against any and all losses, liabilities, charges, damages or fines that the Vendor or its agents incur as a result of the Purchaser's breach of the foregoing, and in particular the Purchaser shall indemnify and save the Vendor, its servants and agents harmless from action, causes of the action, claims and demands for, upon or by reason or any damages, loss or injury to person or property of the purchaser, or any of his friends, relatives, workmen or agents who have entered on the Property whether with or without authorization, express or implied, of the Vendor.

OCCUPANCY AND COMPLETION

29. The Purchaser agrees that the Dwelling may be occupied when the requirements of the Municipality have been complied with and the Vendor has complied with the terms of the Addendum, notwithstanding that there remains exterior or other work to be completed as hereinbefore and hereinafter set out, including but not limited to completion of requirements pertaining to the Property or the Subdivision, requirements of any Development Agreement, the painting, paving of the driveway (if part of the Purchase Price), and/or any other grading, sodding and landscaping, all as hereinbefore provided.

Though the Dwelling may be occupiable by the Purchaser, the Purchaser acknowledges that the condominium development may have on-going construction activity, which construction activity may create dangers to the Purchaser and invitees, including risk of bodily harm or death. The Purchaser agrees that they must abide by all warning signs, fences and barriers and not to trespass upon areas of the Condominium that are under construction, and that in the event of any harm to the Purchaser or their invitees due to such trespassing the Purchaser shall assume full responsibility for such harm and shall indemnify the Vendor in this regard. This may be pleaded as a full estoppel by the Vendor in the event the Purchaser raises any claims related to such harm.

TITLE

30. The Purchaser agrees to accept title to the Property subject to the following items and the Purchaser covenants and agrees to adhere to the terms and conditions as set out therein. If requested by the Vendor the Purchaser shall accept title to the Property from any registered owner of same and shall accept that owner's title covenants in lieu of the Vendor. The Purchaser agrees to satisfy himself as to compliance with any of the following items and the Vendor shall not be obligated on Closing, or thereafter to obtain any compliances, releases or discharges with respect to any of the following items:
- a) any subdivision agreement, site plan agreement, servicing agreement, utility agreement, tree preservation agreement, development agreement, heritage agreement, front ending agreement, Section 37 Planning Act (Ontario) agreement, financial agreement engineering agreement and/or any other agreement entered into

- with the Municipality and/or any other governmental authority or with any public or private utility commission, including any restrictions, covenants, obligations or liabilities contained therein (collectively the "**Development Agreements**");
- b) any building or other restrictions and all covenants, licences, agreements, cost sharing agreements, easements, licences, Notices of Interest, Notices of Leases, Notices of Security Interests, including without limitation, restrictions implementing architectural control over the exterior finish, colour and materials of the Dwelling and/or limiting or prohibiting the installation of satellite dishes and installation or alteration of landscaping, fence or items on the Property, whether registered now or at any time prior to the Occupancy Date and the Purchaser agrees, if required by the Vendor, to sign the transfer/deed of land containing such restrictions and covenants and to extract the same from any subsequent purchasers;
 - c) a right in the nature of an easement or license for the Vendor and its respective successors and assigns and its servants and agents to enter upon the Property at any time following completion for periods of up to 10 years to permit the Vendor to carry out the obligations, if any, under the Development Agreements or as imposed by any governmental authority to effect any corrective measures with respect to the Development Agreements applicable to the Property and/or Subdivision and the transfer/deed of land may contain a clause to this effect;
 - d) all easements, rights of way, licenses or leases, permanent or temporary, as exist or may subsequently be granted in favour of the Municipality, any Governmental Authority, the Vendor, any Service Provider, the Vendor, any owner of adjacent or neighbouring lands and/or any public or private utility, for the provision of utility services or other services to the Property or other neighbouring lands, including without limitation, telephone, electricity, natural gas, television cable, internet, sewers, water, or other services or utilities; and, further, the Purchaser covenants and agrees to assume, accept and permit any such easements, rights of way, licenses or leases and if such easements, rights of way, licenses or leases have not been determined when the Purchaser receives his conveyance, such conveyance may contain a covenant by the Purchaser for himself, and his heirs, executors, estate trustees, successors and assigns, to grant any additional easements, rights of way, licenses or leases as may be required by the Vendor, adjacent and/or neighbouring landowner, Vendor, any Governmental Authority, Service Provider or utility and the Purchaser further covenants and agrees to execute all documents without charge which may be required to convey or confirm any such easements, right of ways, licenses or leases, etc., and shall exact a similar covenant in any agreement entered into between the Purchaser and any subsequent purchaser from him;
 - e) such easements as may be required for access/egress, construction, servicing, utilities, sewers, maintenance or encroachment purposes and the encroachments permitted thereby, all as determined by the Vendor or Vendor or as required by any Governmental Authority, provided that the party requesting such easement may not necessarily be the party designated to benefit by such easement;
 - f) such easements or rights of way over the Property as may be necessary to permit the Vendor or Vendor to construct, repair and/or maintain any dwellings and/or installations on any part of any lands owned by the Vendor and the Purchaser covenants and agrees that it shall not interfere or impede the Vendor's use and enjoyment of the aforesaid easements;
 - g) a right of re-entry or licence in favour of the Vendor to enter upon the Property at any time or times for the purposes of inspecting, maintaining and/or repairing any municipal works, services and/or facilities, for a period of ten years after closing;
 - h) easements in perpetuity in favour of any public utilities commission or authority and/or private company (the "**Commission**" or "**Commissions**") over, under, upon, across and through the Property for the purposes of facilitating the installation, operation, maintenance and/or repair of a Commission's electrical plant, water services and/or hydro-electric services (and all necessary appurtenances thereto) in order to facilitate the supply of hydro-electric service to the Property, Subdivision or any other neighbouring lands (the "**Hydro/Water Easement**");
 - i) easements in perpetuity in favour of any natural gas service provider (the "**Gas Company**") over, under, upon, across and through the Property 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 Property, Subdivision and/or neighbouring lands and if so requested by the Gas Company, title shall also be subject to an agreement with the Gas Company (the "**Gas Agreement**");
 - j) easements in perpetuity in favour of, and/or agreements, with any cable television/satellite television/internet/telephone service providers (the "**Telecoms**") over, under, upon, across and through the Property for the purposes of facilitating the installation, operation, maintenance and/or repair of the Telecoms' cable television/internet/satellite television/telephone lines and equipment (and all necessary appurtenances thereto) in order to facilitate the supply of cable television, satellite television, internet, telephone service services to the Property, Subdivision and/or neighbouring lands, with the Purchaser being separately billed or invoiced directly by the Telecoms for all services so consumed). The Purchaser also acknowledges that the wires, cables and fittings comprising the Telecoms are (or shall be) owned by the Telecoms;
 - k) all rights accruing to Her Majesty the Queen, any Governmental Authority and/or any third party pursuant to and/or under the patents issued in respect of the Property by the Crown;
 - l) restrictions registered pursuant to the Land Titles Act, R.S.O. 1990, as amended (and with all the items referred to in these sections (a) to (l) collectively referred to as the "**Permitted Encumbrances**"); and

- m) as well as any open development, building, electrical and/or plumbing permits or approvals that pertain to the Dwelling provided that the local municipality or other regulatory authority has issued all occupancy permissions or permits or approvals as required by the Addendum in respect to the Dwelling and in this regard the Purchaser specifically agrees that any such open permit shall not comprise a title matter, a matter going to the root of title and/or shall not comprise a notice of violation and/or work order.
31. a) The title to the Property to be good and free from all encumbrances, save and except the Permitted Encumbrances as hereinbefore provided and any other registration as hereinafter provided for in this Agreement. The title is to be examined by the Purchaser at his own expense and without the Purchaser calling for the production of any deeds or abstracts of title, surveys, proof of evidence of title or to have furnished any copies thereof, other than those in the Vendor's possession. The Purchaser is to be allowed until 15 days prior to the Closing Date hereof to examine the title at his own expense and if within that time he shall furnish the Vendor in writing with any valid objections to the title which the Vendor shall be unwilling or unable to remove and which the Purchaser will not waive, this Agreement shall, notwithstanding any intermediate acts or negotiations, be null and void and the portion of the Deposit and Extras paid to the Vendor shall be returned without interest (unless interest is required pursuant to the Addendum) and the Vendor shall not be liable for any damages or costs whatsoever, including, without limiting the generality of the foregoing, loss of bargain, loss of profit, relocation costs, loss of income, professional fees and disbursements and any amount paid to third parties on account of decoration, construction or fixturing costs, unless such compensation is required pursuant to the Addendum and/or ONHWPA. Save as to any valid objections so made within such time, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Property. The Vendor shall be allowed to answer requisitions by way of a title advice statement addressed to purchasers of lands in the Subdivision.
- b) The Purchaser acknowledges that the Property is or will be encumbered by blanket mortgages and/or encumbrances which the Purchaser is not to assume and that the Vendor shall not be obliged to obtain and register (partial) discharges of such mortgages insofar as they affect the Property on the Closing Date. The Purchaser agrees to close the transaction notwithstanding the existence of such charge(s) and accept the Vendor's Solicitors' undertaking to register (partial) discharges of such mortgages in respect of the Property upon receipt, subject to the Vendor or the Vendor's Solicitors providing to the Purchaser or the Purchaser's solicitor the following:
- i) a mortgage statement or letter from the mortgagee(s) (or from their respective solicitors) confirming the amount, if any, or the terms if an amount is not applicable, required to be paid to the mortgagee(s) to obtain (partial) discharges of the mortgages with respect to the Property;
 - ii) a direction from the Vendor to the Purchaser to pay such amounts to its solicitors in trust and/or the mortgagee(s) (or to whomever the mortgagees may direct) on the Closing Date to obtain a (partial) discharge of the mortgage(s) with respect to the Property; and
 - iii) an undertaking from the Vendor's Solicitors to deliver such amounts to the mortgagees and to register the (partial) discharge of the mortgages with respect to the Property upon receipt thereof and to advise the Purchaser or the Purchaser's solicitor concerning registration particulars which notification can be performed by posting same on the world wide web in a location given to the Purchaser or his solicitor.
- c) The Purchaser shall, both before and after closing, also grant and execute any and all temporary or permanent easement(s) for the installation and/or maintenance of private and/or municipal utility or other services to the Property, or to adjacent or neighbouring properties, in favour of any governmental authorities, private and/or public utilities and/or service providers and/or to adjacent or neighbouring land owners (including without limitation, any easement(s) for maintenance purposes for all lots within the plan of subdivision where less than 1.2 meter side yards are being provided), as well as easements for roof overhangs and eaves troughs and easements, forthwith upon the Vendor's request. In addition the Purchaser shall at the request of the Vendor, provide on Closing a transfer or transfers of easements in favour of any adjacent lands for overhead crane swings, facilitating the installation of shoring or foundations, installing and maintaining piles and/or tie-back installations, temporary working easements for construction on adjacent lands and/or the installation of temporary hoarding on the rear yard of the Lot as required in connection with any of the previously set out easements. The Purchaser shall procure any Planning Act consents and postponements from any holders of any mortgage or encumbrance registered on the Property by which such mortgage or encumbrance is postponed to any such easements, and the Purchaser shall be responsible for all costs and expenses in granting, procuring or registering such easements or postponements (including without limitation the cost of obtaining *Planning Act* consents). The Purchaser acknowledges and agrees that due to the proximity of the Dwelling to adjacent Dwellings or structures, minor encroachments may exist with respect to eaves and/or exterior walls of certain dwellings, fences or other structures and the Purchaser specifically acknowledges and agrees to accept title to the Property subject to any such encroachments and such encroachments shall be deemed to be a "Permitted Encroachment" as defined above.
- d) Other than is required pursuant to the Addendum, the Vendor shall not be obliged to provide any title deeds, abstract, occupancy permits or certificates, surveys, grading certificates, or any other evidence of title or that the Dwelling may be legally occupied, and the Purchaser shall satisfy himself that the Dwelling may be occupied in accordance with municipal requirements. The Purchaser agrees to accept a transfer of title to the Property directly from the registered owner thereof, and to accept such owner's title covenants in lieu of the Vendor's title covenants, in the event that the Vendor is not the registered owner of the Property on closing, provided that the Vendor shall be obliged to provide such further and other covenants and undertakings as the Purchaser may be entitled to pursuant to this agreement.

PLANNING ACT

32. This Agreement shall be effective to create an interest in the Property and/or Lot only if there is compliance with the subdivision control provisions as set out in the Planning Act, R.S.O. 1990 and any amendments thereto, including without limitation Section 50 thereof, on or before the Occupancy Date.

MANNER OF PURCHASER'S TITLE

33. The Purchaser agrees to advise the Vendor or its solicitors within 15 days of acceptance of this Agreement of the manner in which title is to be taken by the Purchaser, failing which the Vendor shall be entitled to endorse title to the Purchaser as set out in accordance with this Agreement.

HOT WATER TANK / CATV/ TELEPHONE

34. The Purchaser acknowledges that the Property and Dwelling is serviced by a rental hot water tank or heater (the "HWT") and same is not included in the Purchase Price. The HWT is rental equipment and the Purchaser shall assume the rental and lease of the HWT on Closing and shall pay all appropriate rental charges associated therewith, plus all applicable taxes, and that same will not form part of the purchase and/or the Purchase Price but will remain chattel property of the HWT equipment provider and the Purchaser agrees to execute a rental contract for the HWT, if necessary. The Purchaser also agrees to be bound by any arrangements made with local CATV/ internet/telephone suppliers.

COSTS OF REGISTRATION AND TAXES

35. The transfer/deed of land shall be prepared at the Vendor's expense and may contain any or all of the provisions set forth in this Agreement and shall be executed by the Purchaser, if required by the Vendor, and the Purchaser shall execute and deliver on the Occupancy Date or Closing Date a covenant, undertaking or agreement incorporating all or any of the terms contained herein or as may be required by the Vendor. The Purchaser undertakes and agrees to register the transfer/ deed at his expense on the Occupancy Date at the time of Closing and agrees to pay the land transfer tax in connection with the registration of the transfer/deed.

RISK UNTIL CLOSING

36. All buildings and equipment comprising the Dwelling and the Property shall be and remain at the risk of the Vendor until Closing Date. Provided that from and after the Occupancy Date, if same occurs prior to the Closing Date, the Purchaser shall provide the Vendor with proof of liability insurance as provided for herein and shall be responsible for obtaining and maintaining any insurance for his/her personal property and contents. Subject to the terms of the Addendum to the contrary, in the event of damage to the Dwelling or Property prior to the Occupancy Date, the Vendor may either repair the damage, finish the Dwelling and complete the sale or may terminate this Agreement and have the Deposits and Extras paid by the Purchaser to the Vendor returned to the Purchaser (together with any interest required by law) and the Vendor shall thereupon be released from its obligations hereunder. It is understood and agreed that the proceeds of all insurance policies held by the Vendor are for the benefit of the Vendor alone. These provisions are subject to any overriding provisions in the ONHWPA, its regulations and/or the Addendum to the contrary.

EXECUTION OF DOCUMENTS

37. a) The Purchaser hereby irrevocably constitutes and appoints the Vendor to be and act as his lawful attorney, in the Purchaser's name, place and stead, in order to execute the PDI Form, Tarion deposit receipt and new housing application form for the HST Rebate (if applicable) or any other documents comprising prescribed security for deposits, together with any other ancillary documents required to be executed in order to procure any available Rebate(s) of the HST applicable in connection with this transaction, as well as any deposit insurance policy (and related documents) if any. 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 receive such notices provided in the Addendum, and/or for the purposes of receiving notices required or desired to be delivered by the Vendor in accordance with this Agreement, acknowledging receipt of warning clause notices or of the inclusion of same within this Agreement, covenanting to indemnities required by the governmental authorities. Provided that this shall not apply in the event that any Purchaser is released from this Agreement prior to the Occupancy Date or termination. In accordance with the provisions of The Powers of Attorney Act, R.S.O. 1990 as amended and/or The Substitute Decisions Act, S.O. 1992, as amended, the Purchaser hereby confirms and agrees that the powers of attorney set out herein may be exercised by the attorney so appointed during any subsequent legal incapacity of the Purchaser, and may and shall only be revoked upon the death of the party giving such power of attorney or as aforesaid. Each power of attorney as granted in this agreement shall be deemed to be coupled with an interest.
- 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 the power of attorney appointing such person must be registered in the Land Titles office where the Property is registered, and a duplicate registered copy thereof (together with a statutory declaration sworn by the attorney or the Purchaser's solicitor confirming that said power of attorney has not been revoked) shall be delivered to the Vendor along with such documents. Where a third party has been appointed as the attorney for the Purchaser, then any notices required or desired to be delivered to the Purchaser in accordance with the terms and provisions of this Agreement, may 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 attorney).

- c) Where the Purchaser herein 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. The Vendor's consent allowing a corporate purchaser to purchase a Dwelling shall not derogate from such Purchaser's obligation to reimburse the Vendor for an amount equivalent to the Rebate (as defined herein) in the event that such corporate purchaser does not qualify for the Rebate.

EXECUTION BY A SPOUSE

38. If the Purchaser is a married person, his or her spouse shall co-sign this Agreement to ensure the performance of the covenants hereunder including, inter alia, the payment of the Purchase Price, together with any other documents that may be required by the Vendor as ancillary thereto, including without limitation, the execution of a counterpart of this Agreement (adding the said spouse as a party to this Agreement) and the Purchaser agrees to deliver such documentation as and when requested by the Vendor.

TENDER AND EXCHANGE OF DOCUMENTS

39. a) The parties acknowledge that on the Closing Date this transaction shall be completed electronically and accordingly there will be no exchange of documents at the Land Registry Office between the parties or their respective solicitors. Any tender of documents or monies hereunder, including those required to be exchanged on the Closing Date, shall be made respectively upon the Vendor or the Purchaser, or upon their respective solicitors, as hereinafter set out and any money shall be tendered by certified solicitor's trust cheque, bank draft from a bank or trust or loan corporation or wire transfer using the LVTS system from a chartered bank or trust company. The Vendor shall be allowed to tender and deliver documentation to the Purchaser by posting the documentation required to be delivered to the Purchaser on the Closing Date on an internet web site on the world wide web, and providing notice to the Purchaser and/or his/her solicitor of the method of accessing such documents on such internet site and the internet address of such web site, or by electronic mail or telefacsimile and the Vendor shall be entitled to charge the Purchaser the costs of any upload costs for the use of such web site or delivery costs. The Vendor shall not be obliged to provide originals of such documents. In the event the Vendor's documents are posted on such site, said documents may be executed electronically in accordance with the Electronic Commerce Act (Ontario) and the posting of such documentation, electronically signed where required, and the notification to the Purchaser's solicitor or the Purchaser of where on the intra-net and/or world wide web such documents can be accessed, shall be deemed to effective tender of such documents on the Purchaser and/or their solicitor, as hereinbefore set out. Notwithstanding anything set out herein to the contrary, any tender upon the Vendor on the Closing Date must be made at the offices of its solicitor during normal business hours, which shall be deemed to be 9:00 a.m. to 4:00 p.m. on any business day (excluding weekends and statutory holidays).
- b) The Purchaser shall deliver on the Closing Date, such declarations, certificates, affidavits, undertakings, indemnities, directions, forms, documents, certificates and other documents as required by the Vendor in its discretion, as well as all monies and funds as may be required herein (by way of certified cheque, bank draft, wire transfer, etc., as provided for in this Agreement), including inter alia, the "Requisite Deliveries" as defined in the Document Registration Agreement governing closing, to the Vendor or Vendor's solicitor (as determined by the Vendor) by no later than 3:00 p.m. on the Closing Date as the case may be. In the event that the Purchaser or his solicitor has not delivered the Requisite Deliveries and/or monies as hereinbefore set out at such location and by the later of such time as stipulated in this Agreement, then the Purchaser shall be deemed for all purposes to have waived tender by the Vendor, and the Purchaser shall be estopped and forever barred from claiming any defect in the title to the Property, or any deficiency in the construction thereof, or that the Vendor was unable or unwilling to provide occupancy of the Dwelling and/or complete this transaction in accordance with the provisions of this Agreement.

ELECTRONIC REGISTRATION

40. a) parties hereto agree that if the electronic registration system (the "Teraview Electronic Registration System" or "TERS") is operative in the applicable Land Titles Office, then, at the option of the Vendor's solicitor, the following provisions shall prevail, namely:
- i) the Purchaser shall be obliged to retain a lawyer, who is both an authorized TERS user and in good standing with the Law Society, to represent the Purchaser in connection with the completion of this transaction, and shall authorize such lawyer to enter into an escrow closing agreement with the Vendor's solicitor on the latter's standard form (the "Document Registration Agreement"), establishing the procedures and timing for completing this transaction and to be delivered by the Vendor's solicitor to the Purchaser's lawyers no later than 7 days before the Occupancy Date.
 - ii) the delivery and exchange of documents, monies and keys to the Dwelling (and with "exchange" being the delivery of documents, monies and keys by each of the parties hereto as provided for in this Agreement), and the release thereof to the Vendor and the Purchaser, as the case may be:
 - a) shall not occur at the same time as the registration of the transfer/deed (and other registerable documentation);
 - b) shall be governed by 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 Documentation Registration Agreement;

- b) the Purchaser shall be obliged to deliver all documents and funds as may be required to close the transaction to the office of the Vendor's solicitor on or before the Closing Date in accordance with the tender provisions of this Agreement;
- c) the Vendor may deliver all documents required for closing on the Closing Date save and except for the electronic deed, to the Purchaser's solicitor, with the Vendor's documents executed electronically in accordance with the Electronic Commerce Act 2002 (Ontario);
- d) if the Purchaser's lawyer is unwilling or unable to complete this transaction via TERS, in accordance with the provision 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 and/or Occupancy Date as may be directed by the Vendor's solicitor, in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's solicitors office;
- e) the Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive a completed electronic transfer/deed to the Dwelling for release and registration until the balance of the funds due on closing (as well as all other documents as may be required by the Vendor), in accordance with the statement of adjustments, are either remitted by certified cheque via personal delivery or by electronic funds transferred to the Vendor's solicitor (or in such other manner as the latter may direct) at its offices, prior to the release of the transfer/deed for registration;
- f) documents to be registered on title to the Dwelling may be delivered by the Vendor to the Purchaser or its solicitor party hereto by telefax or email (or by a similar system reproducing the original), provided that all documents so transmitted have been duly and properly executed by the appropriate parties/signatories thereto. The Purchaser and/or its solicitor shall be obliged to provide the Vendor with a copy of the registered transfer forthwith after the Closing Date;
- g) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been validly made by the Vendor upon the Purchaser when the Vendor's solicitor has: delivered all closing documents and/or funds to the Purchaser's solicitor in accordance with the provisions of this Agreement (including delivery of such documents via the internet); and 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 co-operation or participation of the Purchaser's solicitor without the necessity of personally attending upon the Purchaser or the Purchaser's solicitor with the aforementioned documents and/or funds [and without any requirement to have an independent witness evidencing the foregoing]. If TERS is not used for the completion of this transaction then an effective tender shall be deemed to have been validly made by the Vendor upon the Purchaser when the Vendor's solicitor has electronically and/or personally delivered all closing documents and deliveries to the Purchaser's solicitor in accordance with the provisions of this Agreement without the necessity of personally attending upon the Purchaser or the Purchaser's solicitor with the aforementioned documents and deliveries [and without any requirement to have an independent witness evidencing the foregoing]. The parties acknowledge and agree that keys are not included in the deliveries and are to be released at the office or on-site office of the Vendor once the transaction contemplated herein is completed and therefore will not be available with the exchange of documents, deliveries and funds, and are accordingly not required for a tender.

RELEASE OF KEYS

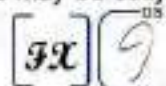
- 41. Keys will be released to the Purchaser at the construction site or the sales office or the head office of the Vendor, as the Vendor in its absolute discretion determines, unless otherwise specifically agreed in writing between the Vendor and the Purchaser. The Purchaser agrees that the Vendor's advice that keys are available for release to the Purchaser constitutes a valid tender of keys on the Purchaser. Upon completion of this transaction, if the Purchaser fails to attend to pick up the keys by five o'clock (5:00) p.m. on that day, the Vendor may retain the keys and release same to the Purchaser on the next business day.

FORCE MAJEURE

- 42. Whenever (and to the extent that) the Vendor or Vendor are prevented, hindered or delayed in the fulfilment of any obligation hereunder, or in the doing of any work by reason of an "act of force majeure" or incident causing "Unavoidable Delay", then, save and except to the extent as provided for or restricted in the Addendum to the contrary, such party's liability to perform such obligation shall be postponed, and such party shall be relieved from any liability in damages or otherwise for breach thereof, for so long as (and to the extent that) such prevention, hindering or delay continues to exist. This right is intended to provide for those instances or situations not provided for in the Addendum, if any. An incident of "force majeure" shall have the same meaning as an incident comprising "Unavoidable Delay" as defined in the Addendum.

NON-REGISTRATION, ASSIGNMENT AND POSTPONEMENT AND SUBORDINATION

- 43. a) The Purchaser hereby acknowledges the full priority of any construction financing or other mortgages arranged by the Vendor and secured by the Property over his interest as Purchaser for the full amount of the said mortgage or construction financing, notwithstanding any law or statute to the contrary and agrees to execute all acknowledgements or postponements required to give full effect thereto. Without limiting the generality of the foregoing, the Purchaser agrees that this Agreement shall be subordinated to and postponed to the mortgage(s) assumed and/or arranged by the Vendor (and presently registered or to be registered on title to the Property) and any advances made thereunder from time to time, and to any easements, Development Agreements or any other agreements referred to herein to which title may be subject. The



Purchaser agrees to execute all necessary documents and assurances to give effect to the foregoing as required by the Vendor. Any breach by the Purchaser of this section shall be considered a material breach.

The Purchaser further covenants and agrees that he will in no way, directly or indirectly, assign, convey, list for sale, sell or transfer his rights under this Agreement prior to the Closing Date to any other person without the consent of the Vendor in writing, which consent may be withheld in the Vendor's sole discretion, and that he will at no time register or attempt to register this Agreement on title to the Property by way of caution, deposit, assignment or in any way whatsoever, or register a certificate of pending litigation and it is expressly agreed by all parties hereto that any such registration or attempt by the Purchaser or anyone acting for or through him shall, at the option of the Vendor, entitle the Vendor to terminate this Agreement and make it absolutely null and void and any monies paid under this Agreement, including inter alia all deposit monies together with all monies paid for any Extras or changes to the Property, may 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 contract, law or equity. In the event that this Agreement, a caution, certificate of pending litigation or any other instrument whatsoever is registered against or dealing with the title in contravention of this provision, then the Purchaser hereby appoints the Vendor his true and lawful attorney pursuant to The Powers of Attorney Act R.S.O. 1990, as amended and/or The Substitute Division Act 1992, as amended for the purposes of removing the contract, caution, certificate of pending litigation or any other instrument from title, including the giving of any discharge, the lifting of any caution, the granting of any order or the assignment of any rights pursuant to this Agreement and this power of attorney shall be deemed to be coupled with an interest. The Purchaser shall bear all costs incurred by the Vendor in the exercise of its function pursuant to this power of attorney. Further, the Purchaser hereby covenants and agrees that at any time prior to Closing Date any default by him in the performance of any of his covenants or obligations contained herein shall entitle the Vendor, at its sole option, to terminate this Agreement and, upon such termination, all monies paid to the Vendor hereunder shall be forfeited to the Vendor and this Agreement shall be at an end and the Purchaser shall not have any further rights hereunder. The Vendor shall have the right to assign this Agreement, provided that any such assignee shall be bound by all of the covenants made by the Vendor herein, and upon such assignment, the Vendor shall thereupon be released from all obligations hereunder, unless provided for in the Addendum to the contrary.

- b) The Purchaser further covenants and agrees that until the Vendor receives the entire Purchase Price, that:
- i) he will not sell, mortgage, pledge, lien or in any way encumber the Property either directly or indirectly;
 - ii) if an execution is filed against him/her and/or the Property he/she will forthwith have the execution removed;
 - iii) if an execution is registered against person(s) with a similar name(s), he/she shall execute all documents required by the Vendor in its discretion, to evidence that he is not the same person(s) named in such execution(s), sufficient to enable the Vendor to obtain a clear execution certificate from the local Land Titles Office.

DEFAULT AND REMEDIES

44. In the event that the Purchaser defaults on any of his obligations contained in this Agreement, makes any assignment to creditors, files for bankruptcy or files any consumer proposal or becomes insolvent on or before Closing, including without limitation, breaching or failing in the performance or observance of any covenant, term, agreement, restriction, stipulation or provision of this Agreement to be performed and/or observed by the Purchaser or if there is any lien, execution or encumbrance arising from any action or default whatsoever of the Purchaser being charged against or affecting the Property, and such Purchaser fails to remedy such default forthwith upon request, then the Vendor, in addition to any other rights or remedies this Agreement provides, 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 Dwelling as hereinbefore provided or contemplated), and/or unilaterally declare the Purchaser in default and/or this Agreement to be terminated and of no further force or effect, whereupon, save and except as provided in the Addendum to the contrary, all Deposits and Extras theretofore paid, together with all interest accrued thereon at the prescribed rate, if any, 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. Notwithstanding and in addition to the foregoing, the Purchaser acknowledges and agrees that time shall be of the essence with respect to all payments to be made by the Purchaser to the Vendor pursuant to this Agreement. In the event that the Purchaser is in default with respect to the payment of any amount owing by the Purchaser to the Vendor pursuant to this Agreement, the Vendor shall have the right to declare this Agreement null and void or, provided the Purchaser satisfies the Vendor that the Purchaser will complete the transaction, the Vendor may (but shall have no obligation to) elect to complete the transaction of purchase and sale contemplated by this Agreement provided that the Purchaser shall pay interest on the amounts which are in arrears calculated at the rate of 18% per annum commencing on the date on which such amount was due and payable by the Purchaser to the Vendor until the date on which all arrears are paid in full plus all additional legal and other expenses incurred by the Vendor. In the event that this agreement is terminated as hereinbefore set out, the Purchaser shall be obliged to execute such releases and any other documents or assurances as the Vendor may require, in order to confirm that the Purchaser, in accordance with the terms of this Agreement, does not have (nor could be deemed or construed to have) any interest whatsoever in the Property and/or this Agreement, and in the event the Purchaser fails or refuses to execute same, the Purchaser hereby appoints the Vendor to be his lawful attorney in order to execute such releases, documents and assurances in the Purchaser's name, place and stead, and in accordance with the provisions of The Powers of Attorney Act R.S.O. 1990, as amended and/or The Substitute Decisions Act, 1992, as amended, the Purchaser hereby declares that this power of attorney may be exercised by the Vendor during any subsequent legal incapacity on the part of the Purchaser.

45. The Purchaser acknowledges and agrees that notwithstanding any rights which he might otherwise have at law or in equity arising out of this Agreement, he shall not assert any of such rights, nor have any claim or cause of action (as a result of any matter or thing arising under or in connection with this Agreement) 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 found to be a nominee or agent 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 or proceeding brought by the Purchaser to assert any of such rights, claims or causes of action. In the event the Vendor's solicitor is holding any of the Deposits and/or Extras in trust pursuant to this Agreement, then in the event of a default by the Purchaser, the Vendor's solicitor shall be entitled to pay and release to the Vendor the said Deposits and/or Extras together with any interest accrued thereon, provided the Vendor has delivered to its solicitors a statement of an officer of the Vendor, certifying that the Purchaser has committed a default pursuant to this Agreement that has not been remedied and that the Vendor has terminated this Agreement and that the Vendor is therefore entitled to the deposit and accrued interest, if any. The Purchaser hereby releases the said solicitors from any obligation to hold the Deposits and/or Extras, if any, in trust, and shall not make any claim whatsoever against the said solicitors and the Purchaser hereby irrevocably authorizes and directs the said solicitors to deliver the said deposit monies and accrued interest, if any, to the Vendor.

LIMITATION

46. No waiver by the Vendor of any breach of covenant or default in the performance of any obligation hereunder or any failure by the Vendor to enforce its rights herein shall constitute any further waiver of the Vendor's rights herein, it being the express intent of the parties that any waiver or forbearance in enforcing its rights by the Vendor shall apply solely to that particular breach or failure. The rights, remedies and recourses of the Purchaser in connection with this Agreement are limited to the Vendor, notwithstanding that the Vendor may be, or be deemed to be by law, acting as an agent or otherwise on behalf of some other person, firm, corporation or other entity and the Purchaser hereby agrees that with respect to this Agreement it shall not have any rights, remedies or recourse against such other person, firm, corporation, or other entity at law or otherwise. The Vendor shall have the right to assign or transfer this Agreement in its sole discretion. The Purchaser shall be obliged to take title from any third party or the Vendor holding title to the Property.

NOTICES AND IRREVOCABLE DATES

47. a) Any notice or document required or desired to be given to the Purchaser in accordance with the terms of the Addendum shall be delivered in accordance with the terms of such Addendum. For all other notices ("Non-Addendum Notices"), if any, notice shall be deemed to have been sufficiently given if same is in writing (electronically or on paper), and either personally delivered to the Purchaser or to his solicitor (at the address of the Purchaser or the Purchaser's solicitor as in this Agreement, or as subsequently confirmed by the Purchaser or the Purchaser's solicitor after the acceptance of this offer), or mailed by prepaid ordinary post or by registered mail, or sent by facsimile transmission, addressed to the Purchaser or to his solicitor (as the case may be) and/or delivered by electronic mail, and any such document or notice shall be deemed to have been given on the date of personal delivery, or on the date of telefacsimile transmission or electronic mailing (provided a confirmation of transmission receipt is produced at the time of telefacsimile transmission and/or a delivery receipt in respect of the electronic mailing is produced confirming the date and time of such electronic mailing), or on the date of registered mailing, or on the second day (excluding Sundays and statutory holidays) after the date of ordinary mailing, as the case may be. In addition, any closing document required or desired to be given to the Purchaser by the Vendor on the Closing Date shall be deemed to have been sufficiently given if same is posted on a web site and the Purchaser has been notified of such posting by notice confirming same delivered by personal delivery, telefax, electronic mail, registered and/or ordinary mail in accordance with the terms set out above. Any Non-Addendum Notices sent to the Purchaser and/or his or her solicitor at the address, telefacsimile number and/or e-mail address provided by the Purchaser and/or his or her solicitor shall be deemed to have been delivered to all of the Purchasers even if he/she/they do not reside at such municipal address or share or have access to such e-mail address, and the Purchaser specifically appoints that Purchaser residing at such address or controlling such e-mail address as his/her/their agent for receiving notices under this Agreement.
- b) Any Non-Addendum Notices or document desired or required to be given to the Vendor shall be deemed to have been sufficiently given if same is in writing and personally delivered or telefaxed to an officer of the Vendor at the address noted below (or at such other address as the Vendor may designate from time to time, upon notice being given to the Purchaser or the Purchaser's solicitor as hereinbefore provided), with a copy of same to be personally delivered or telefaxed to the Vendor's solicitor, and any such document or notice shall be deemed to have been given on the date of such personal delivery, or on the next day (excluding Saturdays, Sundays and statutory holidays) following the date of facsimile transmission (provided a confirmation of transmission receipt is produced at the time of facsimile transmission). Notwithstanding the foregoing, this provision shall not apply to the exchange of electronic documents created in TERS between the respective solicitors for the Vendor and Purchaser, and such exchange of electronic documents shall take place utilizing TERS and the electronic transmission format required herein, and documents messaged or access permitted through the TERS system shall be deemed to have been delivered on the date and time same were messaged and/or released as such date is shown on the TERS system. Any documents messaged after 5:00 p.m. (Toronto time) shall be deemed to be delivered and received on the next day that TERS system is available for the registration.
- c) This offer by the Purchaser, constituted by his/her/their execution of this Agreement, shall be irrevocable by the Purchaser until the 5th day (excluding Saturday, Sunday or any statutory holiday) following the date of his execution of this Agreement as set forth below, 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.

- d) If the Purchaser moves from the address set out on the Addendum and/or changes any of the relevant contact information provided on the Addendum and fails to notify the Vendor of the change or new contact information, then delivery of such notices shall be deemed to be effective if made to the address, fax number or email address as set out on the Addendum even if the Purchaser does not receive notice of same.

CONSTRUCTION LIENS

48. The Purchaser acknowledges and agrees that the monies paid to the Vendor as Deposits or Extras, shall not be recognized and treated for the purposes of *The Construction Lien Act R.S.O. 1990, as amended*, as monies held in trust pursuant to the provisions of the Act. The Purchaser shall be deemed and construed to be a "home buyer" within the meaning 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 demand that any holdback of the Purchase Price be maintained for construction liens on the Closing Date.

TIME OF THE ESSENCE

49. Time shall 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 and exchanged by the parties hereto or by their respective solicitors who are hereby expressly authorized in that regard.

NON-MERGER, VENDOR'S LIEN

50. The Purchaser's covenants and agreements hereinbefore and hereinafter contained shall not merge on the Closing, but shall remain in full force and effect according to their terms and shall be binding upon the Purchaser and its heirs, executors, administrators, successors and assigns, notwithstanding the conveyance of title to the Property to the Purchaser and the payment of the Purchase Price and other monies therefor. The Purchaser agrees to give to the Vendor any further written assurances as to the non-merger of its covenants, on, before and after closing, if so requested by the Vendor. The Purchaser acknowledges and agrees that the Vendor may reserve a Vendor's lien, in accordance with the Vendor's usual form, to secure any unpaid portion of the Purchase Price and/or any other monies owing to the Vendor by the Purchaser in connection with this transaction (including all remedial rectification costs incurred by the Vendor) and may register a caution or a notice of such Vendor's lien against the Property. The Vendor will however, upon request, deliver to the Purchaser (for registration at the Purchaser's expense) a release of the Vendor's lien or a withdrawal of caution but only after all monies owing to the Vendor by the Purchaser have been duly paid to the Vendor by the Purchaser, including without limitation, the repayment of any adjustments resulting from this transaction.

CONSUMER REPORTS

51. 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.

PRIVACY MATTERS

52. The Purchaser hereby acknowledges that this transaction requires the supply of personal information, and therefore, in order to comply with any and all 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, dissemination, and use of the Purchaser's personal information, including without limitation, the Purchaser's name, home and business address, personal and business e-mail address, telefax/telephone number, age, date of birth and marital status, residency status, social insurance number (for the purposes described below), the Purchaser's financial information, suite design(s) and colour/finish selections, in connection with the completion of this transaction and for post-closing and after-sales customer care purposes and future marketing purposes, and to the disclosure and/or distribution of any or all of such personal information to the following entities, on the express understanding and agreement that the Vendor shall not sell or otherwise provide such personal information to anyone other than:
- a) any companies or legal entities that are associated with, related to or affiliated with the Vendor (or with the Vendor's parent/holding company) and are developing one or more other projects or properties 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) one or more third party sales, marketing, advertising and/or data processing companies which handle or process sales and/or marketing campaigns on behalf of the Vendor or other companies that are associated with, related to or affiliated with the Vendor, and who may send (by e-mail or other means) promotional literature/brochures about new projects and/or related services to the Purchaser and/or members of the Purchaser's family;
 - c) 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, the Vendor's designated take-out lender(s), Tarion and/or any warranty bond provider and/or excess deposit insurer, required in connection with the development and/or construction financing and/or the financing of the Purchaser's acquisition of the Property from the Vendor;

- d) any insurance companies providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof), 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;
- e) any contractors, subcontractors, trades, subtrades, suppliers and/or sub-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 home constructed upon the Property and the installation of any extras or upgrades ordered or requested by the Purchaser;
- f) one or more providers of cable television, telephone, telecommunication, hydro-electricity, chilled water/hot water, gas and/or other similar or related services to the Property (or any portion thereof) and/or any other companies involved with the provision of metering or submetering services for utilities supplied to the Property and/or any equipment supplier supplying equipment to the home constructed upon the Property;
- g) any relevant governmental authorities or agencies, including without limitation, the Land Titles Office, the Ministry of Finance for the Province of Ontario (ie with respect to Land Transfer Tax), and Canada Revenue Agency (ie with respect to the HST);
- h) Canada Revenue Agency, with respect to any information required to be provided to them in connection with the residency or non-residency status of the Purchaser and/or as may be required in respect of any goods or services taxes issue; and
- i) the Vendor's solicitors, for the purposes of completing this transaction and reporting same to the Vendor and/or any requisite Governmental Authority (including the Municipality for the purposes of amending property tax records).

FINANCIAL TERMS

53. Provided that same does not contravene or is provided for in the Addendum, the Purchaser agrees to deliver to the Vendor or the Vendor's designated lender, within 5 days of the acceptance of this Agreement by the Vendor, and thereafter as requested from time to time, all necessary financial and personal information required by the Vendor in order to evidence the Purchaser's ability to pay the balance of the Purchase Price on the completion of the sale transaction, including without limitation, written confirmation of the Purchaser's income and evidence of the source of the payments required to be made by the Purchaser in accordance with this Agreement. The Purchaser further agrees to execute all mortgage application forms and provide all financial information and confirmations as required by the Vendor from time to time, together with all documents required to comply with the provisions of The Family Law Act R.S.O. 1990, as amended, all within five days of any written request for same. The Purchaser agrees to complete and execute the mortgage application and financial disclosure forms requested by the Vendor truthfully and to the best of his/her ability, and the Purchaser acknowledges that the information, evidence and documents required to be provided by him pursuant to this subparagraph may be required to be furnished to the Vendor from time to time prior to the Occupancy Date. The Purchaser hereby specifically authorizes and directs any mortgagee or financial institution giving the Purchaser purchase financing for the Property, to provide to the Vendor a copy of all mortgage commitments/financial disclosure in respect of same and all revisions thereto, together with all other associated documentation. In the event that the Purchaser fails to submit the information, evidence and/or documents for approval within the time periods as hereinbefore set forth as and when requested by the Vendor, or if the information, evidence and/or documentation submitted pursuant to the provisions of this Agreement or any amendment thereto is, in whole or in part, false or misleading, or if the Purchaser fails to disclose any relevant facts pertaining to his financial circumstances or abilities, then the Purchaser shall be deemed to be in default under this Agreement, and the default provisions of this Agreement shall apply.

DEVELOPMENT MATTERS AND REZONING OF ADJACENT LANDS

54. The Purchaser acknowledges that the Vendor or the Vendors' assigns or related or affiliated corporation(s), or the Vendor, may apply to rezone or subdivide or amend the Official Plan and/or obtain site plan approval with respect to lands within, or adjacent to or in the neighboring vicinity of the lands contained within the plan of subdivision encompassing the Property and/or any lands within the Municipality, County or Region in which the Property is situate, and the Purchaser hereby covenants and agrees that it shall not oppose any such official plan amendment, rezoning, condominium and/or subdivision application(s), site plan approval applications, or any other applications ancillary thereto, including without limitation, any application(s) made for a minor variance before the relevant Committee of Adjustment or any other governmental body or authority having jurisdiction so as to enable the Vendor or its nominee to sever lands, grant easements, change the set back requirements of such lands, the present use of such lands or any part thereof, or to vary the density coverage, dwelling count, size of lots or yield thereof, or for any other lawful purpose, and the Purchaser further acknowledges and agrees that this covenant may be pleaded as an estoppel or bar to any opposition or objection raised by the Purchaser thereto. The Purchaser further covenants and agrees to extract a covenant similar to the foregoing from its immediate successors in title to the Property, and shall specifically include such a restrictive covenant in any subsequent conveyance, transfer or other disposition of the Property, and shall assign the benefit of such covenant to the Vendor or the Vendor's nominee forthwith upon the Vendor's request.

CONDOMINIUM PROVISIONS

55. In addition to purchasing the Real Property, the Purchaser hereby agrees that he/she is purchasing a common interest in the Condominium as more particularly described in the Condominium Documents on the terms and conditions as hereinafter.

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- a) That portion of the Purchase Price applicable to the common interest in the Condominium shall be \$2.00 Dollars which shall be payable as part of the monies due on the Occupancy Date from the Purchaser to the Vendor. There is no deposit payable by the Purchaser for the purchase of the common interest in the Condominium.
- b) The Purchaser agrees to accept title subject to the Creating Documents and such of the Condominium Documents registered from time to time (notwithstanding that same may be amended or varied from the proposed Condominium Documents provided to the Purchaser), as well as any other those interests, easements, encumbrances, covenants and other registered documents as permitted in accordance elsewhere in this Agreement. The Purchaser further acknowledges that upon receipt of a Transfer/Deed of Land to the POTL, that the common interest in the Condominium Corporation cannot be severed from the Real Property upon any subsequent sale of the POTL.
- c) The Purchaser acknowledges that the Condominium, the common elements and the purchase of a common interest in the Condominium are not warranted by Tarion under the ONHWPA.
- d) The Purchaser acknowledges that the roadway and parking area common elements of the Condominium Corporation will not be constructed to the standards and/or requirements, if any of the Municipality, for public roads and services. The Purchaser covenants and agrees that the Purchaser shall have no claims against the Vendor for said standards of workmanship or materials. The Purchaser agrees that the foregoing may be pleaded by the Vendor as an estoppel in any action brought by the Purchaser or his successors in title against the Vendor. The Vendor may, from time to time, change, vary or modify in its sole discretion or at the instance of any Governmental Authority or mortgagee or as it may require in its discretion, any part of the Condominium to conform with any municipal requirements related to official plan or official plan amendments, zoning by-laws, committee of adjustment and/or land division committee decisions, municipal site plan approval, or as may be required by the Vendor in its discretion. Such changes may be to the plans and specifications existing at inception of the Condominium or as they existed at the time the Purchaser entered into this Agreement, or as illustrated on any sales brochures or otherwise. The Purchaser shall have no claim against the Vendor for any such changes, variances or modifications nor shall the Vendor be required to give notice thereof. The Purchaser hereby consents to any such alterations and agrees to complete the sale notwithstanding any such modifications.
- e) In the event that for any reason whatsoever, the Condominium has not been registered by the Closing Date or if the Vendor is unable to deliver to the Purchaser on or before Closing, a conveyance of the Property, with title in accordance with the provisions of this Agreement, then the Vendor at its option, may require that the Purchaser close the purchase transaction and take possession of the POTL on the Closing Date and enter into the Occupancy Licence.

MISCELLANEOUS

56. Successors, Gender and Other Matters: The meanings of the words and phrases used in this Agreement and in any schedules annexed hereto shall have the meanings ascribed to them in the Act, unless this Agreement or the context otherwise requires a different meaning for same. This Agreement shall be read with all changes in gender and number required by the context. 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. This Agreement shall enure to the benefit of, and be binding upon, the parties hereto, and their respective heirs, executors, administrators, successors and permitted assigns.

JOINT AND SEVERAL LIABILITY



57. This Agreement of Purchase and Sale shall be governed by the laws of the Province of Ontario. If more than one individual, partnership and/or company comprises the Purchaser, then all of the covenants, obligations and agreements of the Purchaser herein shall be deemed and construed to be the joint and several covenants, obligations and agreements of all the individuals, partnerships and companies comprising the Purchaser.

SEVERABILITY

58. In the event of any conflict or inconsistency between the terms of this Agreement and the Addendum then the terms of the Addendum shall prevail and the terms of this Agreement in conflict or inconsistent shall be deemed to be severed from the Agreement without affecting the validity and/or enforceability of the balance of the Agreement. If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal or invalid, or beyond the powers or capacity of the parties hereto, then provided such provision is not, in the Vendor's sole opinion, essential or fundamental to the completion of this transaction, such provision shall be deemed and construed to be severed and deleted from this Agreement, and the remainder of this Agreement shall continue in full force and effect.

BINDING OFFER AND ENTIRE AGREEMENT

59. The parties re-affirm that this Agreement when accepted shall constitute a binding Purchase Agreement between the Purchaser and the Vendor. It is agreed and understood that there is no representation, warranty, collateral term or condition affecting this Agreement or the Property, or for which the Vendor (or any sales representative representing the Vendor) 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 any sales representative representing the Vendor, 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, whether based or founded in contract law or in tort law, 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 any sales representative or by any other person alleged to represent the Vendor on behalf of or purporting to be binding upon the Vendor, save and except for those representations of the Vendor herein set forth in writing. The Purchaser further confirms that in entering into this Agreement, he has not relied on any representation, warranty, collateral agreement or condition affecting this Agreement or the Property, or supported thereby, other than those specifically set out in this Agreement or in any of the schedules hereto, and specifically absolves the Vendor and/or any other party that may seek indemnification or contribution from the Vendor, of any obligation or liability to perform or comply with any promise or comply with any promise or representation that may have been made by any sales representative/agent or alleged against them, unless the same has been reduced to writing and is contained in this Agreement or in the schedules hereto.

EXECUTION AND ELECTRONIC EXCHANGE

60. This Agreement may be executed and counter-signed by telefacsimile and/or electronic mail and a telefacsimile or electronically transmitted reproduction of this offer with a signature of the Vendor and/or the Purchaser may be relied upon to the same extent as if it were an original. The Vendor and the Purchaser covenant and agree, upon the request of the other, to provide an originally executed copy of this Agreement to the requesting party.

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SCHEDULE "C"
TO THE AGREEMENT OF PURCHASE AND SALE OF STATEVIEW HOMES (NAO TOWNS) INC.
TERMS OF OCCUPANCY LICENCE

1. The terms of the Occupancy Licence shall be substantially in accordance with the terms and conditions of this schedule provided that the Vendor shall have the right to amend the terms of schedule in its discretion. The transfer of title to the Unit shall take place on the Closing Date upon which date, unless otherwise expressly provided for hereunder, the term of this Occupancy Licence shall be automatically terminated once title to the Unit has passed to the Purchaser.
2. The Vendor grants to the Purchaser a licence to occupy the Unit from the Occupancy Date to the Closing Date (the "**Interim Occupancy**"). The Purchaser shall pay to the Vendor the Occupancy Fee during the Interim Occupancy which is the aggregate of the following amounts, namely: a) the amount of interest payable in respect of the unpaid balance of the Purchase Price at the prescribed rate; b) an amount reasonably estimated by the Vendor on a monthly basis for municipal realty taxes attributable by the Vendor to the Unit; and c) the projected monthly common expense contribution for the Unit. The occupancy fee shall be paid on the first day of each month in advance during Interim Occupancy, no part of which shall be credited as payments on account of the Purchase Price, but which payments shall be a charge for occupancy only. If the Occupancy Date is not the first day of the month, the Purchaser shall pay on the Occupancy Date a pro rata amount for the balance of the month by certified funds. The Purchaser shall deliver to the Vendor on or before the Occupancy Date a series of post-dated cheques as required by the Vendor for payment of the estimated monthly Occupancy Fee. The Occupancy Fee may be recalculated by the Vendor, from time to time based on revised estimates of the items which may be lawfully taken into account in the calculation thereof and the Purchaser shall pay to the Vendor such revised Occupancy Fee following notice from the Vendor. With respect to taxes, the Purchaser agrees that the amount estimated by the Vendor on account of municipal realty taxes attributed to the Unit shall be subject to recalculation based upon the real property tax assessment or reassessment of the Units and/or Condominium, issued by the Municipality after the Closing Date and the applicable mill rate in effect as at the date such assessment or reassessment is issued. The Occupancy Fee shall thereupon be recalculated by the Vendor and any amount owing by one party to the other shall be paid in accordance with this agreement and/or the Act.
3. The Purchaser shall be allowed to remain in occupancy of the Unit during Interim Occupancy provided the terms of this Occupancy Licence and the Agreement have been observed and performed by the Purchaser. In the event the Purchaser breaches the terms of occupancy the Vendor in its sole discretion and without limitation of any other rights or remedies provided for in this Agreement or at law may terminate this Agreement and revoke the Occupancy Licence whereupon the Purchaser shall be deemed a trespasser and shall give up vacant possession forthwith. The Vendor may take whatever steps it deems necessary to obtain vacant possession and the Purchaser shall reimburse the Vendor for all costs it may incur.
4. At or prior to the time that the Purchaser takes possession of the Unit, the Purchaser shall execute and deliver to the Vendor any documents, directions, acknowledgments, assumption agreements or any and all other documents required by the Vendor pursuant to this Agreement, in the same manner as if the closing of the transaction was taking place at that time. The Purchaser shall pay the monthly Occupancy Fee during Interim Occupancy and the Vendor shall return all unused post-dated Occupancy Fee cheques to the Purchaser on or shortly after the Closing Date.
5. The Purchaser agrees to maintain the Unit in a clean and sanitary condition and not to make any alterations, improvements or additions thereto without the prior written approval of the Vendor which may be unreasonably withheld. The Purchaser shall be responsible for all utility, telephone expenses, cable television service, or other charges and expenses billed directly to the occupant of the Unit by the supplier of such services or by the Corporation or such other third party and not the responsibility of the Corporation under the Condominium Documents. No noise constituting an annoyance and/or nuisance or disrupting the normal use of a residential unit shall be permitted to be transmitted from one residential unit to another residential unit. If the Vendor determines that any noise is being transmitted to another unit and that such noise is an annoyance and/or a nuisance and/or disruptive, then the owner of such unit shall, at his/her expense, take such steps as are necessary in the opinion of the Vendor to rectify and/or abate such noise. Any owner of a residential unit, save and except the Vendor or any related or affiliated company, who installs and/or causes to be installed, hardwood flooring, synthetic hard surface flooring, laminate flooring and/or any other ceramic tile flooring ("**Hard Surface Flooring**"), shall prior to such installation, install such sound proofing sub-flooring material as required by the Vendor. In addition, the Vendor may require that the said unit owner(s) install carpeting (having a face weight and underpad as the Vendor may designate) over the Hard Surface Flooring as the Vendor may deem necessary or desirable in order to abate noise in the unit where the Hard Surface Flooring has been installed. In the event that the said unit owner fails to undertake the rectification/abatement measures required by the Vendor, then the Purchaser shall be in default under this licence and the Purchase Agreement entitling the Vendor to its remedies thereunder. In addition no owner, tenant or occupant of a Residential Unit shall be permitted to alter, penetrate, remove, any portion of any demising wall or ceiling assembly (including the drywall) between any residential unit or any exterior wall or ceiling, other than the application of any wall or ceiling covering or paint. In addition, no owner, tenant or occupant of a Residential Unit shall be permitted to install any electronic equipment or audio speakers in the cavity of any demising wall or ceiling between any residential unit or any exterior wall or

ceiling. In the event that the said unit owner defaults with respect to this obligation then the Purchaser shall be in default under this licence and the Purchase Agreement entitling the Vendor to its remedies thereunder.

6. The Purchaser's occupancy of the Unit shall be governed by the provisions of the Condominium Documents and the provisions of this Agreement. The Unit may only be occupied and used in accordance with the Condominium Documents and for no other purpose.
7. The Vendor and the Purchaser covenant and agree, notwithstanding the taking of possession, that all terms hereunder continue to be binding upon them and that the Vendor may enforce the provisions of the Occupancy Licence separate and apart from the purchase and sale provisions of this Agreement.
8. The Purchaser acknowledges that the Vendor holds a fire insurance policy on the Condominium including all aspects of a standard unit only and not on any improvements or betterments made by or on behalf of the Purchaser. It is the responsibility of the Purchaser, after the Occupancy Date to insure the improvements or betterments to the Unit and to replace and/or repair same if they are removed, injured or destroyed. The Vendor is not liable for the Purchaser's loss occasioned by fire, theft or other casualty, unless caused by the Vendor's willful conduct. The Purchaser must insure all chattels on the Property at his/her own expense after the Occupancy Date. The Purchaser agrees to indemnify the Vendor for all losses, costs and expenses incurred as a result of the Purchaser's neglect, damage or use of the Unit or the Condominium, or by reason of injury to any person or property in or upon the Unit or the Condominium resulting from the negligence of the Purchaser, members of his immediate family, servants, agents, invitees, tenants, contractors and licensees. The Purchaser agrees that should the Vendor elect to repair or redecorate all or any part of the Unit or the Condominium as a result of the Purchaser's neglect, damage or use of the Unit or Condominium, he will immediately reimburse the Vendor for the cost of doing same, the determination of need for such repairs or redecoration shall be at the discretion of the Vendor, and such costs may be added to the Purchase Price.
9. In accordance with clause 80(6)(d) and (e) the Act, subject to strict compliance by the Purchaser with the requirements of occupancy set forth in this Agreement, the Purchaser shall not have the right to assign, sublet or in any other manner dispose of the Occupancy Licence during Interim Occupancy without the prior written consent of the Vendor which consent may be arbitrarily withheld. The Purchaser acknowledges that, if permitted by the Vendor, such assignment will result in the Purchaser owing the Vendor, in addition to the Purchase Price, all amounts equal to all Rebates and HST Credits as the assignment will disentitle the Purchaser to the Rebates and will also pay the Vendor an administrative fee together with all applicable taxes will be payable to the Vendor each time the Purchaser wishes to assign, sublet or dispose of the Occupancy License during Interim Occupancy, and is permitted to do so.

The provisions set forth in this Agreement, unless otherwise expressly modified by the terms of the Occupancy Licence, shall be deemed to form an integral part of the Occupancy Licence. Subject to the terms and conditions of the ONHWPA and/or the Addendum, in the event the Vendor elects to terminate the Occupancy Licence pursuant to this Agreement following substantial damage to the Unit and/or the Condominium, the Occupancy Licence shall terminate forthwith upon notice from the Vendor to the Purchaser. If the Unit and/or the Condominium can be repaired within a reasonable time following damages as determined by the Vendor (but not, in any event, to exceed one hundred and eighty (180) days) and the Unit is, during such period of repairs uninhabitable, the Vendor shall proceed to carry out the necessary repairs to the Unit and/or the Condominium with all due dispatch and the Occupancy Fee shall abate during the period when the Unit remains uninhabitable; otherwise, the Purchaser shall vacate the Unit and deliver up vacant possession to the Vendor and all moneys, paid in respect of deposits and/or Extras (excluding the Occupancy Fee paid to the Vendor) shall be returned to the Purchaser. It is understood and agreed that the proceeds of all insurance policies held by the Vendor are for the benefit of the Vendor alone. These provisions are subject to any overriding provisions in the ONHWPA, its regulations and/or the Addendum to the contrary.

Warranty Information for New Homes in Parcel of Tied Land



This information sheet provides a basic overview of the warranties and protections that come with your home on a freehold parcel of tied land which is legally tied to a Common Elements Condominium Corporation. Typically, occupancy of the home is provided before the closing of the sale of the land. This warranty is provided to you by your builder and backed by Tarion. For more detailed information, please visit [tarion.com](http://www.tarion.com) and log into our online learning hub at www.tarion.com/learninghub

The Pre-Delivery Inspection (PDI)

Before you take occupancy of your unit, your builder is required to conduct a pre-delivery inspection, (PDI) with you or someone you designate to act on your behalf. If you wish, you may be accompanied by someone who can provide expert assistance. The PDI is important because it is an opportunity to learn about how to operate and maintain parts of your unit, such as the ventilation and heating systems. It is also important because it gives you an opportunity to note items in your unit that are damaged, missing, incomplete, or not working properly before you take occupancy. This record is also very important as it may help show what items may have been damaged before you moved in and helps resolve any disputes relating to whether or not an item of damage was caused by your occupancy and use.

The PDI is only one piece of evidence relating to damaged or incomplete items, and you should take note and document (e.g. via photos or video) any concerns or damaged items as soon as you notice them after taking occupancy if they were missed during the PDI. If they are not addressed by your builder, you can include them in your 30-Day Form to Tarion. Damaged items are covered under the warranty if the damage was caused by the builder or their trades. There is more information about the PDI here: www.tarion.com/learninghub

Deposit Protection

The deposit you provide to your builder is protected up to certain limits if your builder goes bankrupt, fundamentally breaches your Agreement of Purchase and Sale or you exercise your right to terminate it. Deposit coverage limits are \$60,000 if the purchase price is \$600,000 or less and 10% of purchase price to a maximum of \$100,000 if the purchase price is over \$600,000. This protection includes the money you put down towards upgrades and other extras.

Delayed Occupancy Coverage

Your builder guarantees that your unit will be ready for you to move in by a date specified in the purchase agreement or a date that has been properly extended (if for certain reasons the original occupancy date cannot be met). You may be able to claim up to \$7,500 from your builder in compensation if they do not meet the conditions for an allowable extension that are outlined in the Addendum to your Agreement of Purchase and Sale.

Warranty Coverage

The warranty on work and materials commences on your date of possession and provides up to a maximum of \$300,000 in coverage. There are limitations on scope and duration as follows. Your builder warrants that your home will, on delivery, have these warranties:

One-Year Warranty

- Your home is constructed in a workmanlike manner, free from defects in material, is fit for habitation and complies with Ontario's Building Code
- Protects against unauthorized substitution of items specified in the Agreement of Purchase and Sale or selected by you

Two-Year Warranty

- Protects against water penetration through the basement or foundation walls, windows, and the building envelope
- Covers defects in work or materials in the electrical, plumbing, and heating delivery and distribution systems
- Covers defects in work or materials that result in the detachment, displacement, or deterioration of exterior cladding (such as brick work, aluminum, or vinyl siding)
- Protects against Ontario's Building Code violations that affect health and safety

Seven-Year Warranty

- Protects against defects in work or materials that affect a structural load-bearing element of the home resulting in structural failure or that materially and adversely compromise the structural integrity; and/or that materially and adversely affect the use of a significant portion of the home.



Continued...

Warranty Exclusions

Your warranty, provided to you by your builder and backed by Tarion, is a limited warranty, and the protection provided by Tarion is also limited. Exclusions to coverage include: normal wear and tear, damage caused by improper maintenance, damage caused by a third party, secondary damage caused by defects that are under warranty, supplementary warranties, deficiencies caused by homeowner actions, elevators, HVAC appliances, specific defects accepted in writing and damage resulting from an Act of God.

Common Elements Not Covered

There is no Common Element warranty coverage on Common Element Condominium Corporations under the Ontario New Home Warranties Plan Act and Regulations. As a purchaser, you should take note of the common elements associated with your home, as maintenance and repair of these items may be the responsibility of the homeowners in the project, subject to the corporation's declaration. This may include shared facilities, walkways, roadways and services (e.g. water and sewage lines, garbage removal and snow removal).

Construction Performance Guidelines

The Construction Performance Guidelines are a resource to provide advance guidance as to how Tarion may decide disputes between homeowners and builders regarding defects in work or materials. The Construction Performance Guidelines are intended to complement Ontario's Building Code. They are supplemented by any applicable guidelines or standards produced by industry associations. They do not replace manufacturer warranties. The Construction Performance Guidelines are available in several different formats accessible via cpg.tarion.com.

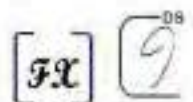
Important Next Steps

1. Visit Tarion's website to learn more about your warranty coverage and the process for getting warranty assistance, as well as your rights, responsibilities, and obligations as a new homeowner.
2. Prepare for your pre-delivery inspection (PDI). Visit Tarion's website for helpful resources, including a PDI Checklist and educational videos.
3. Register for Tarion's **MyHome** right after you take occupancy. MyHome is an online tool you can use from your computer or mobile device that allows you to submit warranty claims and upload supporting documents directly to your builder and Tarion. It also alerts you to important dates and warranty timelines, allows you to receive official correspondence from Tarion electronically, and schedule an inspection with Tarion when you need assistance.

About Tarion

Tarion is a not-for-profit organization that administers Ontario's new home warranty and protection program. Our role is to ensure that purchasers of new homes receive the warranties and protections, provided by their builder and backstopped by Tarion, that they are entitled to by law.

Contact us at 1-877-982-7466 or customerservice@tarion.com.





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INFORMATION FOR BUYERS OF PRE-CONSTRUCTION CONDOMINIUM HOMES ABOUT THE POSSIBLE TERMINATION OF PURCHASE AGREEMENT

To: Purchaser(s) of the Property

1. Take Note

YOU ARE ENTERING INTO A PURCHASE TRANSACTION WHICH RELATES TO A PRE-CONSTRUCTION CONDOMINIUM UNIT¹. YOU SHOULD BE AWARE OF THE POSSIBILITY THAT IT MAY NEVER BE COMPLETED.

IMPORTANT INFORMATION ABOUT YOUR PURCHASE IS SET OUT IN THIS DOCUMENT.

YOU SHOULD REVIEW YOUR PURCHASE AGREEMENT INCLUDING THIS DOCUMENT WITH A LAWYER FAMILIAR WITH CONDOMINIUM TRANSACTIONS.

REMEMBER THAT YOU HAVE A 10-DAY PERIOD TO CANCEL YOUR PURCHASE.²

2. Be Aware of Timing

The Vendor's best estimate as to when your unit will be ready for occupancy is shown as the "First Tentative Occupancy Date" on the Statement of Critical Dates and is 03/11/2024 (Month/Day/Year). This date may be further extended. Please refer to the Statement of Critical Dates in the Tarion Condominium Addendum (which forms part of your Purchase Agreement) for an explanation of how this date may change.

3. Completion of Your Purchase Is Not Certain - It Can Be Terminated by the Vendor³

Your Purchase Agreement contains early termination conditions which could result in your purchase being terminated. These are set out in detail in the Tarion Condominium Addendum. In general terms, the Vendor can end your purchase if:

- (a) By _____ (Month/Day/Year), a set level of sales for the project has not been achieved.
- (b) By _____ (Month/Day/Year), certain zoning and/or development approvals have not been obtained.
- (c) By _____ (Month/Day/Year), satisfactory financing for the project has not been obtained.

This may not list all of the conditions that may exist in the Tarion Condominium Addendum.

Note: In most cases, if your Purchase Agreement is terminated, any deposit monies you have paid must be returned to you with interest at the rate no less than that prescribed by the *Condominium Act, 1998*⁴. Other recourse (monetary or otherwise) may be limited – you should speak to your lawyer.

4. Ownership of Property

The Vendor represents, warrants and declares that the Vendor owns the freehold ownership interest in the Property or has the power to compel transfer of the freehold ownership interest in the Property before closing.

5. Title Restrictions

The Vendor represents, warrants and declares that:

- (a) The Property is free from any registered title restriction that binds the Project which would prevent completion of the Project and/or sale of your unit to you. YES NO
- (b) If No, that is, if such a restriction exists, the Vendor's explanation for how the restriction will be removed so the Project can proceed and/or the sale can be completed is set out below (add attachment, if necessary).

¹ This information sheet applies to residential units in a standard residential condominium corporation as well as a phased condominium corporation (see paras 6(2) 2 and 4. of the *Condominium Act, 1998*).

² See *Condominium Act, 1998*, s.73.

³ **Note to Vendor:** insert "n/a" in the date area if any of paragraphs 3(a), (b) or (c) do not apply.

⁴ Interest required to be paid on deposit monies returned to a purchaser is governed by the *Condominium Act, 1998* – see section 82, and section 19 of O. Reg. 48/01. In general terms, it is 2 percentage points less than a specified Bank of Canada rate recalculated every 6 months.

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6. Zoning Status

The Vendor represents, warrants and declares that:

- (a) The Vendor has obtained appropriate Zoning Approval for the Building. YES NO
 (b) If No, the Vendor shall give written notice to the Purchaser within 10 days after the date that appropriate Zoning Approval for the Building is obtained.

7. Construction Status

The Vendor represents, warrants and declares that:

- (a) Commencement of Construction: has occurred; or, is expected to occur by _____ (Month/Day/Year).
 (b) If commencement has not occurred, the Vendor shall give written notice to the Purchaser within 10 days after the actual date of Commencement of Construction.

8. Your Purchase Agreement

This document is to be used for a purchase transaction where the transaction remains conditional and the unit is a condominium unit in respect of a condominium project for which a description is proposed to be registered under the *Condominium Act, 1998*. This document⁵ together with the Tarion Condominium Addendum⁶, forms part of your Purchase Agreement. This document, the Tarion Condominium Addendum and the balance of your Purchase Agreement are to be signed at the same time. If any conflict or inconsistency exists among these documents, the provisions of the Tarion Condominium Addendum shall prevail followed by this document. Terms not defined in this document have the meaning set out in the Tarion Condominium Addendum.

9. Sign Up for MyHome

Tarion recommends that you register on Tarion's **MyHome** on-line portal, visit Tarion's website – tarion.com, and carefully review the *Homeowner Information Package* to better understand your rights and obligations under the statutory warranties.

10. Legal Advice is Important

PRIOR TO SIGNING THE PURCHASE AGREEMENT OR ANY AMENDMENT TO IT, YOU SHOULD SEEK ADVICE FROM A LAWYER WITH RESPECT TO THE PURCHASE AGREEMENT OR ANY AMENDING AGREEMENT TO THE PROPOSED TRANSACTION. ALSO REVIEW WITH YOUR LAWYER THE DISCLOSURE STATEMENT REQUIRED BY THE CONDOMINIUM ACT, 1998.


DATED 02/04/2021 (Month/Day/Year).

I/We the undersigned acknowledge having received and read this document.

 Purchaser

 Purchaser

 Vendor

⁵ Tarion's expectation is that this document be placed at the front of the purchase agreement. Compliance with the requirement to place this document at the front of the Purchase Agreement does not affect enforceability of the purchase agreement.

⁶ This is the mandatory condominium addendum required to be attached to this Purchase Agreement and referred to in Regulation 165/08 under the *Ontario New Home Warranties Plan Act*.

**Limited Use Freehold Form
(Tentative Occupancy Date - POTL/CEC)**

Property Nao Towns - Ph2

**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: Home buyers are encouraged to refer to the Home Construction Regulatory Authority's website www.hcraontario.ca to confirm a vendor's licence status prior to purchase as well as to review advice about buying a new home. 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. The Warranty Information Sheet, which accompanies your purchase agreement and has important information, 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 Stateview Homes (Nao Towns) Inc

PURCHASER [Redacted]
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: the 11th day of March, 2024.

A **Second Tentative Occupancy Date** can subsequently be set by the Vendor by giving proper written notice at least 90 days before the First Tentative Occupancy Date. The Second Tentative Occupancy Date can be up to 120 days after the First Tentative Occupancy Date, and so could be as late as: the 9th day of July, 2024.

The Vendor must set a **Firm Occupancy Date** by giving proper written notice at least 90 days before the Second Tentative Occupancy Date. The Firm Occupancy Date can be up to 120 days after the Second Tentative Occupancy Date, and so could be as late as: the 6th day of November, 2024.

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.

The Vendor can set a **Delayed Occupancy Date** that is up to 365 days after the earlier of the Second Tentative Occupancy Date and the Firm Occupancy Date; This **Outside Occupancy Date** could be as late as: the 9th day of July, 2025.

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 twice by up to 120 days each time by setting a Second Tentative Occupancy Date and then a Firm Occupancy Date 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: the 12th day of December, 2023.

(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.

Notice of a second delay in Occupancy must be given no later than: the 10th day of April, 2024.
(i.e., at least **90 days** before the Second Tentative Occupancy Date), or else the Second Tentative Occupancy Date becomes the Firm Occupancy Date.

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: the 8th day of August, 2025.

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, 11 and 12 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 [Redacted] of 02/04/2021, 20

VENDOR: [Redacted]

PURCHASER: [Redacted]

Limited Use Freehold Form
(Tentative Occupancy Date – POTL/CEC)

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 freehold but also involves an interest in a common elements condominium corporation. 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 Stateview Homes (Nao Towns) Inc

Full Name(s) 48820	410 Chrislea Rd		
HCRA Licence Number 905-851-1849	Address Woodbridge	Ontario	L4L8B5
Phone 905-851-1841	City	Province	Postal Code
Fax	Email* daniel@stateviewhomes.com		

PURCHASER [REDACTED]

Full Name(s) [REDACTED]	[REDACTED]		
Address [REDACTED]	City	Province	Postal Code
Phone [REDACTED]	[REDACTED]		
Fax	Email*		

PROPERTY DESCRIPTION

7822,7834,7846 McCowen Road			
Municipal Address Markham	Ontario		
City	Province	Postal Code	
Short Legal Description			

Number of Homes in the Freehold Project 76 (if applicable – see Schedule A)

INFORMATION REGARDING THE PROPERTY

The Vendor confirms that:

- (a) The Property is within a plan of subdivision or a proposed plan of subdivision. Yes No
 If yes, the plan of subdivision is registered. Yes No
 If the plan of subdivision is not registered, approval of the draft plan of subdivision has been given. Yes No
- (b) The Vendor has received confirmation from the relevant government authorities that there is sufficient:
 (i) water capacity; and (ii) sewage capacity to service the Property. Yes No

If yes, the nature of the confirmation is as follows:

If the availability of water and sewage capacity is uncertain, the issues to be resolved are as follows:

- (c) A building permit has been issued for the Property. Yes No
 (d) Commencement of Construction: has occurred; or is expected to occur by the 18 day of May, 2023.

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.

**Limited Use Freehold Form
(Tentative Occupancy Date – POTL/CEC)**

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 home subject to all prescribed requirements, to provide Occupancy of the home without delay, and, to register without delay the declaration and description for the related common elements condominium corporation.
- (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) **Second Tentative Occupancy Date:** The Vendor may choose to set a Second Tentative Occupancy Date that is no later than 120 days after the First Tentative Occupancy Date. The Vendor shall give written notice of the Second Tentative Occupancy Date to the Purchaser at least 90 days before the First Tentative Occupancy Date, or else the First Tentative Occupancy Date shall for all purposes be the Firm Occupancy Date.
- (d) **Firm Occupancy Date:** The Vendor shall set a Firm Occupancy Date, which can be no later than 120 days after the Second Tentative Occupancy Date or, if a Second Tentative Occupancy Date is not set, no later than 120 days after the First Tentative Occupancy Date. If the Vendor elects not to set a Second Tentative Occupancy Date, the Vendor shall give written notice of the Firm Occupancy Date to the Purchaser at least 90 days before the First Tentative Occupancy Date, or else the First Tentative Occupancy Date shall for all purposes be the Firm Occupancy Date. If the Vendor elects to set a Second Tentative Occupancy Date, the Vendor shall give written notice of the Firm Occupancy Date to the Purchaser at least 90 days before the Second Tentative Occupancy Date, or else the Second Tentative Occupancy Date shall for all purposes be the Firm Occupancy Date.
- (e) **Notice:** Any notice given by the Vendor under paragraphs (c) and (d) 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 11.

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;

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(Tentative Occupancy Date – POTL/CEC)**

- (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 (j), (k) and (l) 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 (j), (k) and (l) 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.
- (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":

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Condition #1 (if applicable)

Description of the Early Termination Condition:

The Approving Authority (as that term is defined in Schedule A) is: _____

The date by which Condition #1 is to be satisfied is the ____ day of _____, 20 ____.

Condition #2 (if applicable)

Description of the Early Termination Condition:

The Approving Authority (as that term is defined in Schedule A) is: _____

The date by which Condition #2 is to be satisfied is the ____ day of _____, 20 ____.

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 (l) 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) If a Purchase Agreement or proposed Purchase Agreement contains Early Termination Conditions, the Purchaser has three (3) Business Days after the day of receipt of a true and complete copy of the Purchase Agreement or proposed Purchase Agreement to review the nature of the conditions (preferably with legal counsel). If the Purchaser is not satisfied, in the Purchaser's sole discretion, with the Early Termination Conditions, the Purchaser may revoke the Purchaser's offer as set out in the proposed Purchase Agreement, or terminate the Purchase Agreement, as the case may be, by giving written notice to the Vendor within those three Business Days.
- (j) 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 a related common elements condominium corporation under the *Condominium Act, 1998*, which compliance shall be obtained by the Vendor at its sole expense, on or before Closing.
- (k) 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.
- (l) 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.

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(Tentative Occupancy Date – POTL/CEC)**

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 11(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 11(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.

9. Occupancy

If the Purchaser accepts or is required to accept Occupancy in advance of receiving a title transfer of the home, then the provisions of Schedule C shall apply.

MISCELLANEOUS

10. 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

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(Tentative Occupancy Date – POTL/CEC)**

- (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.

11. 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 or Schedule C.
- (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.

12. 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 11(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.

13. Definitions

"**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

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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 the 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 home.

"Critical Dates" means the First Tentative Occupancy Date, the Second 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.

"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.

"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 on or before Closing.

"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 freehold home being acquired by the Purchaser from the Vendor, and its interest in the related common elements condominium corporation.

"Purchaser's Termination Period" means the 30-day period during which the Purchaser may terminate the Purchase Agreement for delay, in accordance with paragraph 11(b).

"Second Tentative Occupancy Date" has the meaning given to it in paragraph 1(c).

"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.

14. 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.

15. 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 15, 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.

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- (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.

16. 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.

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SCHEDULE A

Types of Permitted Early Termination Conditions

1. The Vendor of a 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) subject to paragraph 1(c), receipt by the Vendor of confirmation that sales of homes in the Freehold Project have exceeded a specified threshold by a specified date;
 - (ii) subject to paragraph 1(c), receipt by the Vendor of confirmation that financing for the Freehold 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.

- (c) the following requirements apply with respect to the conditions set out in subparagraph 1(b)(i) or 1(b)(ii):
- (i) the 3 Business Day period in section 6(i) of the Addendum shall be extended to 10 calendar days for a Purchase Agreement which contains a condition set out in subparagraphs 1(b)(i) and/or 1(b)(ii);
 - (ii) the Vendor shall complete the Property Description on page 2 of this Addendum;
 - (iii) the date for satisfaction of the condition cannot be later than 9 months following signing of the purchase Agreement; and
 - (iv) until the condition is satisfied or waived, all monies paid by the Purchaser to the Vendor, including deposit(s) and monies for upgrades and extras: (A) shall be held in trust by the Vendor's lawyer pursuant to a deposit trust agreement (executed in advance in the form specified by Tarion Warranty Corporation, which form is available for inspection at the offices of Tarion Warranty Corporation during normal business hours), or secured by other security acceptable to Tarion and arranged in writing with Tarion, or (B) failing compliance with the requirement set out in clause (A) above, shall be deemed to be held in trust by the Vendor for the Purchaser on the same terms as are set out in the form of deposit trust agreement described in clause (A) above.

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).

"Freehold Project" means the construction or proposed construction of three or more freehold homes (including the Purchaser's home) by the same Vendor in a single location, either at the same time or consecutively, as a single coordinated undertaking.

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.

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SCHEDULE B

Adjustments to Purchase Price or Balance Due on Closing

PART I Stipulated Amounts/Adjustments

These 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.

[Draft Note: List items with any necessary cross-references to text in the Purchase Agreement.]

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PART II All Other Adjustments – to be determined in accordance with the terms of the Purchase Agreement

These 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.

[Draft Note: List items with any necessary cross-references to text in the Purchase Agreement.]

SCHEDULE "B"

Part I – refer to the following sections in the Agreement of Purchase and Sale

Paragraph 7: In the event that the Vendor receives any rebate, credit, recovery, adjustment, discount or similar benefit from any party or parties in respect of any item that the Vendor is entitled to charge the Purchaser for in accordance with this Agreement, then the Vendor shall be entitled to retain any such rebate, credit, recovery, adjustment, discount or similar benefit for its own use and as its own property absolutely and shall not be obliged to credit or adjust with the Purchaser for any such rebate, credit, recovery, adjustment, discount or similar benefit.

Paragraph 7(c): The Purchaser shall pay to the Vendor on closing the charge imposed upon the Vendor or its solicitors by the Law Society of Ontario upon registration of the Transfer/Deed of Land or Charge/Mortgage of Land or any other instrument in the amount of sixty-five dollars (\$65.00);

Paragraph 7(e): A Five Hundred Dollars (\$500.00) administrative fee shall be charged to the Purchaser for any cheque delivered to the Vendor pursuant to this Agreement or for any extras ordered, which is returned "N.S.F." or upon which a "stop payment" has been ordered or is not honoured by the bank of the Purchaser for any other reason (collectively "Returned Cheque") and such administration fee shall form a credit in favour of the Vendor in the Statement of Adjustments for each Returned Cheque and shall be paid on the Closing Date.

Paragraph 7(g): All proper readjustments shall be made after Closing, if necessary, forthwith upon written request. The Vendor may reserve a Vendor's Lien, following the Vendor's usual form, for unpaid purchase monies or adjustments or claims herein provided together with the interest thereon as provided for herein, and the Purchaser covenants and agrees to forthwith pay all costs in relation to said Vendor's Lien including, without limitation, the Vendor's solicitor's legal fees and disbursements and the cost to register said Vendor's Lien on title to the Property. The Vendor will upon request deliver to the Purchaser (for registration at the Purchaser's expense) a release of the Vendor's Lien after such unpaid purchase monies or adjustments or claims herein provided, as applicable, together with the interest thereon as provided for herein have been received by the Vendor and upon payment of a discharge fee of one hundred dollars (\$100.00) plus Applicable Taxes.

Paragraph 7(h): The Purchaser shall provide a refundable security deposit in the amount of twenty-five hundred dollars (\$2,500.00) on the Closing (the "Security Deposit") to secure compliance with the Purchaser's obligations hereunder including, without limitation, the Purchaser's grading and subdivision damage covenants. The Purchaser and/or the Purchaser's designate does hereby agree that at the time of the PDI or such other time as may be set by the Vendor, the Purchaser and/or the Purchaser's designate will attend at the Property and upon such request, the Purchaser and/or the Purchaser's designate and Vendor mutually agree that they will attend at the Property to inspect with the Vendor the subdivision services installed by the Vendor or Vendor and to compile a list of all existing damages or defects to the subdivision services, including buried or damaged water boxes and keys, damaged curbs or sidewalks, retaining walls, acoustic barriers, fences and other such applicable services. Such compiled list to be signed by the Vendor and the Purchaser and/or the Purchaser's designate, and the Purchaser shall not under any circumstances be responsible for the cost of repair, rectification or replacement of such existing damages or defects and the Vendor shall not apply any portion of the Security Deposit paid by the Purchaser in compliance with this Agreement in respect of the repair, rectification or replacement of any such existing damages to the subdivision services. The Vendor's consulting engineer for this subdivision shall be the authority for the development of the subdivision as a whole and will determine responsibility and damages and costs therefore and in the event that the Vendor's consulting engineer determines the responsibility for the cost of repair, rectification and/or replacement is that of the Purchaser, then the Vendor will charge the Purchaser accordingly, save and except for those items listed on inspection as noted herein and the Purchaser agrees to abide by such engineer's decision and the Vendor will deduct the cost of such repair, rectification or replacement from the Security Deposit relevant thereto. Should the cost of such repairs, rectification or replacement EXCEED the value of the Security Deposit, then the Vendor shall be entitled to compensation from the Purchaser for the difference between the Security Deposit and such costs and the Purchaser shall pay such shortfall amount upon demand by the Vendor. The Security Deposit, (or any balance thereof after applicable deductions as herein described) shall be released to the Purchaser(s) named in this Agreement AFTER the event of Municipal Assumption of Subdivision Services;

Paragraph 7(i): In the event the Vendor has provided the Purchaser with a building or foundation survey, the Purchaser shall pay the Vendor same in the amount of five hundred (\$500.00), plus Applicable Taxes as an adjustment on Closing;

Paragraph 7(k): If the Purchaser fails to enter into any necessary contractual arrangements with the relevant public or private utility authorities and suppliers with regards to the provision of water, hydro, gas, cable TV and/or any other service to the Property on or after the Closing Date (or the Occupancy Date if the Purchaser takes Occupancy of the Dwelling before the date of Closing), the Purchaser shall forthwith upon demand pay to the Vendor all amounts charged to the Vendor after the Closing Date (or the Occupancy Date if the Purchaser takes Occupancy of the Dwelling before the date of Closing) with regards to such utilities and/or services plus the Vendor's administrative fee of two hundred fifty dollars (\$250.00) plus Applicable Taxes for each month (or part thereof) that the Vendor is charged for each said utilities and/or services;

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Part II

Paragraph 7: In the event that the Vendor receives any rebate, credit, recovery, adjustment, discount or similar benefit from any party or parties in respect of any item that the Vendor is entitled to charge the Purchaser for in accordance with this Agreement, then the Vendor shall be entitled to retain any such rebate, credit, recovery, adjustment, discount or similar benefit for its own use and as its own property absolutely and shall not be obliged to credit or adjust with the Purchaser for any such rebate, credit, recovery, adjustment, discount or similar benefit.

Paragraph 7(a): The Purchaser agrees to take all necessary steps to assume immediately on Closing, charges for electricity, water, gas and other services, and the Vendor may recover any payments made by the Vendor on account of the Property from the Purchaser. The gas meter/water meter/electricity meter is/are not included in the purchase if it/they is/are not the Property of the Vendor. The Purchaser shall pay, or reimburse the Vendor for the cost of, or the charge made for, or prepayments for, or security performance deposits relating to, any of the water, electricity or gas service, including, without limitation, the cost and/or installation of any meters, and the installation, connection and/or energization fees for any of such services. The Purchaser agrees to accept the utility suppliers designated by the Vendor. Subsequent to Closing and prior to assumption of the subdivision by the Municipality, if the Purchaser changes any or all of the utility suppliers, the Purchaser shall be responsible for the repair of any damage caused to the Property and neighbouring lands by such alternate utility suppliers and any costs incurred by the Vendor or Vendor to restore the Property to the original state provided by the Vendor.

Paragraph 7(b): Taxes, fuel, water rates, assessment rates and local improvements to be apportioned and adjusted with the Vendor being responsible for all such charges up to the Closing Date with the Purchaser being responsible for all such charges from and including the Closing Date. Where the Vendor has posted security for taxes, made payment for taxes or has been advised by the applicable authority that taxes will be billed to its account for the current year and/or following year, taxes shall be adjusted as if such sum had been paid by the Vendor notwithstanding that the same may not by the Closing Date have been levied or paid, subject, however, to readjustment upon the actual amount of said realty taxes being ascertained. In the event realty taxes have not been individually apportioned or assessed in respect of this Property and remain en bloc, then notwithstanding that such en bloc taxes may be outstanding and unpaid, the Purchaser covenants to complete this transaction and accept the Vendor's undertaking to pay realty taxes once individually assessed against this Property and agrees to pay on Closing a deposit to be readjusted and to be applied on account of the Purchaser's portion of realty taxes applicable to this Property. Municipal realty tax re-assessment and/or supplementary tax bills relating to the Dwelling constructed on the Property issued subsequent to the Closing shall be the sole responsibility of the Purchaser. Notwithstanding the foregoing, the Vendor shall not be obliged to make any readjustment of the foregoing deposit in the event that such readjustment is equal to or less than one hundred fifty dollars (\$150.00).

Paragraph 7(d): The Vendor represents and warrants that it is reregistered as a builder under the Warranty Act, as hereinafter defined, and that the Property is or will be enrolled under the Warranty Act. The Purchaser covenants and agrees to reimburse the Vendor on closing for the enrollment fee paid by the Vendor for the Property under the Warranty Act (together with any provincial or federal taxes eligible with respect thereto);

Paragraph 7(f): any increase after the date of execution of this Agreement by the Purchaser in any levy, payment, contribution, charge, fee assessment, together with any and all interest charges pertaining to development charges levied by the municipality including without limitation, any parks levies, development charges, education development charges, cash in lieu of parkland dedication payments, public art contributions and/or impost charges (collectively, the "Existing Levy") required, assessed, charged or imposed as of that date by the Municipality, a regional municipality, a transit authority, a public or separate school board or any other authority having jurisdiction under the Development Charges Act, the Education Act, the Planning Act and any other existing or new legislation, bylaw and/or policy and/or if any of the aforesaid authorities require, assess, charge or impose a new or any other levy, payment, contribution, charge, fee or assessment (collectively referred to as the "New Levy") under the Development Charges Act, the Education Act, the Planning Act and any other existing or new legislation, bylaw and/or policy after the date of execution of this Agreement by the Purchaser then, the Purchaser shall pay to the Vendor the increase to the Existing Levy and/or amount of the New Levy, as the case may be, as an adjustment on the Closing Date plus Applicable Taxes exigible thereon;

Paragraph 7(j): Any charges, plus Applicable Taxes, paid by the Vendor to the Municipality and/or other governmental authority with respect to "Blue Boxes" or other recycling programs, shall be reimbursed to the Vendor on the Closing;

Paragraph 5(l): if requested by the Vendor or the Electricity Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of electricity and/or the party monitoring consumption of electricity to the Property (the "Electricity Provider"), on the Electricity Provider's form, for the provision and/or metering of electricity services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such electricity services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date;

Paragraph 7(m): if requested by the Vendor or the Water Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of water and/or the party monitoring consumption of water to the Property (the "Water Provider"), on the Water Provider's form, for the provision and/or metering of water services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such water services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date;

Paragraph 7(n): if requested by the Vendor or the Gas Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of gas and/or the party monitoring consumption of gas to the Property (the "Gas Provider"), on the Gas Provider's form, for the provision and/or metering of gas services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such gas services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date.

Paragraph 7(o): In the event the Vendor has undertaken an obligation to the Vendor to contribute to the cost of subdivision esthetic enhancement such as boulevard treatment or improvement, or landscaping, or subdivision entrance features, or corner lot fencing, or fences or retaining walls, in the subdivision, the Purchaser shall, on closing, reimburse the Vendor as to the cost thereof for the Property, the cost to be absolutely determined and apportioned by statutory declaration sworn on the part of the Vendor.

Paragraph 8: All proper readjustments shall be made after Closing Date and/or the Occupancy Date, if necessary, forthwith upon request. Any limits on the costs of adjustments or reimbursement shall be deemed to be exclusive of applicable taxes and the Vendor shall be entitled to add the cost of applicable taxes to such adjustments, including any HST that may be added to the Levies or other adjustments, if required by the Canada Revenue Agency. The Vendor shall provide a statutory declaration of the costs for which it is requesting re-adjustment after closing, and such adjustments as owed to the Vendor shall be a charge on the Property, and the Vendor shall be entitled to a vendor's lien in respect of same and shall be entitled to enforce such payment in the same manner as a mortgage in default.

Paragraph 9(a): The Purchase Price set out above includes the HST net of Rebates as assigned/transferred to the Vendor, and the Purchase Price has been established on the basis that Purchaser will qualify for the full amount of the Rebate or Rebates, as applicable, and that the Rebate or Rebates will be assigned or an equivalent amount transferred or credited to the Vendor, in addition to such Purchase Price. The current rate of HST is 13 percent and this is the rate that is applicable to this contract before netting out the Rebates from such HST. Purchasers are advised that the Purchase Price offered to the Purchaser has been calculated on the basis that the Purchaser shall qualify for and assign to and/or transfer and/or reimburse the Vendor the maximum Rebate based on the Purchase Price set out herein as adjusted, save and except as hereinafter set out to the contrary. The Vendor shall credit the Purchaser on Closing Date as determined by the Vendor, with all Rebates to which the Purchaser is entitled, subject to the Purchaser assigning and/or transferring or crediting the Rebates (or an equivalent amount) to the Vendor and/or reimbursing the Vendor for such Rebates as hereinafter set out subject to the assignment/transfer/crediting of the Rebates to the Vendor. The Purchaser warrants and represents that he/she qualifies for the full amount of the Rebate possible with respect to this purchase transaction and that either he or she or a blood relation, as set out in the ITA, shall be occupying the Property from and after the Closing Date. In the event that there is any legislation of any Governmental Authority that does not permit the assignment of the Rebate then the Purchaser shall transfer, credit and/or pay an equivalent amount of the Rebate to the Vendor on Closing (or thereafter as applicable) and the Vendor shall be entitled to vendor's lien for such amount and the Purchaser acknowledges that this amount form part of the consideration due to the Vendor.

Paragraph 9(b): If the rate of HST is increased or decreased or the percentage of calculation of the Rebate is amended/reduced, or the rate or thresholds in respect of the HST exemptions or rebate entitlement are changed between the date of this Agreement and the Closing Date or

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Occupancy Date, with the result that the net amount of the HST to be remitted by the Vendor increases, then the Purchaser shall pay the Vendor an amount on the Closing Date equal to such additional HST payable by the Vendor. A statutory declaration of any officer of the Vendor as to the alteration, increase amendment, etc., as hereinbefore set out shall be determinative in this regard.

Paragraph 9(c): If the rate of the HST is reduced between the date of this Agreement and the Closing Date but such reduction is for the benefit of the Purchaser and not the Vendor (the "HST Credit"), then the Purchaser hereby assigns all right, benefit and entitlement to such HST Credit and shall execute any and all forms, documents, assignments, etc., as required by the Vendor in this regard in the Vendor's absolute discretion. The Purchaser hereby irrevocably authorizes and directs CRA to pay or credit the HST Credit directly to the Vendor.

Paragraph 9(d): The Purchaser covenants and warrants (which covenant and warranty shall survive the completion of this Agreement) that he/she has not made any claim and will not make any claim for any Rebate or HST Credit in respect of the Property.

Paragraph 9(e): Notwithstanding any other provision in this Agreement to the contrary, the Purchaser agrees that the Purchase Price for the Property, set out on page 3 of this Agreement, does not include HST on closing adjustments and amounts payable for Extras and/or upgrades purchased or ordered by the Purchaser (whether as part of this Agreement or otherwise) payable under this Agreement and that same are subject to HST on the Closing Date and that such HST shall be chargeable and payable by the Purchaser in addition to any other HST included in the Purchase Price. The Purchaser acknowledges and agrees that the HST payable in respect of such adjustments and/or Extras and/or upgrades shall be at the rate of HST otherwise applicable to this Agreement.

Paragraph 10: The Purchaser hereby irrevocably assigns and/or transfers to and/or credits the Vendor all of the Purchaser's rights, interests and entitlements to the Rebate (and concomitantly releases all of the Purchaser's claims to or interests in the Rebate, to and in favour of the Vendor), and hereby irrevocably authorizes and directs CRA to pay or credit the Rebate directly to the Vendor. The Purchaser represents and warrants that the Purchaser is acquiring the Property for his or his blood relative's primary place of residence within the meaning of the Excise Tax Act (Canada) or Income Tax Act (Canada) or any replacement statute and is entitled to the maximum amount of the Rebate applicable to purchase transactions of this nature, at the Purchase Price as amended in accordance with in this Agreement. In the event that there are separate assignments and rebates of the provincial and/or federal portion of the HST with respect to this transaction, the Purchaser shall execute and deliver all applications, assignments, declarations, documents and/or other assurances (in the form required by the Vendor or the Government of Canada and/or the Province of Ontario) to the Vendor required to establish and assign all of his or her right, title and interest in the Rebates or any portion thereof. In the event that there is any legislation of any Governmental Authority that does not permit the assignment of the Rebate then the Purchaser shall transfer, credit and/or pay an equivalent amount of the Rebate to the Vendor on Closing (or thereafter as applicable) and the Vendor shall be entitled to vendor's lien for such amount and the Purchaser acknowledges that this amount form part of the consideration due to the Vendor. The Purchaser covenants and agrees that the Vendor shall have the right in its complete discretion to determine whether the Purchaser qualifies for any Rebates and the Vendor's determination of such entitlement shall be final and binding. The Purchaser hereby covenants, warrants and/or represents to the Vendor, with respect to this transaction, that:

- a) the Purchaser is a natural person who is acquiring the Property with the intention of being the sole beneficial owner thereof on the Closing Date (and not as the agent or trustee for or on behalf of any other party or parties),
- b) upon the Occupancy Date and continuing up to and including the Closing Date, and continuing thereafter, the Purchaser or one or more of the Purchaser's blood relations, as determined in accordance with the Excise Tax Act (Canada) and Income Tax Act (Canada), 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; and
- c) he or she has not claimed (and hereby covenants not to 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 or permitted.

Paragraph 11: The Purchaser acknowledges and agrees that




- a) the total consideration for the calculation of HST includes not only the Purchase Price but all other taxable supplies charged to the Purchaser pursuant to this Agreement or otherwise including without limitation, Extras, upgrades, applicable adjustments and/or reimbursements charged by the Vendor under this Agreement such as Tarion Enrolment fees, connections fees, as well as any charge for development charge levies and education levies or other levies and charges, etc. (with such additional amounts hereinafter referred to as the "Additional Charges"), the costs of which the Vendor may charge to the Purchaser. The Additional Charges and applicable HST shall constitute part of the taxable supply with respect to the said transaction and shall be added to the Purchase Price to determine the total consideration upon which HST and the Rebate are calculated; and
- b) any Extras and/or Additional Charges are part of the single supply of the home and for HST purposes constitutes a change in the price being paid for the Dwelling and for the purposes of HST shall be deemed to form part of the Purchase Price.

Paragraph 12: If it is determined by the Vendor that the Purchaser is not entitled to the maximum permitted Rebate or any portion thereof (including any portion of same the Purchaser becomes disentitled to as a result of an increase in the total consideration payable hereunder as a result of any Additional Charges, Extras, etc., purchased or payable by the Purchaser), the Purchaser agrees to pay to the Vendor, in addition to any other amounts stipulated in this Agreement, the amount of the Rebate to which the Purchaser becomes disentitled, (which shall be paid on the Closing Date) and until so paid, such amount shall form a charge/vendor's lien against the Property, which charge shall be recoverable by the Vendor in the same manner as a mortgage in default. The Purchaser covenants and agrees to indemnify and save the Vendor harmless from and against any loss, cost, damage and/or liability (including without limitation, legal fees and disbursements, and 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 maximum permitted Rebate, or as a result of the Purchaser having qualified initially but being subsequently disentitled to the Rebate, or as a result of the inability to assign the benefit of the Rebate to the Vendor (or the ineffectiveness of the documents purporting to assign the benefit of the Rebate to the Vendor) and such amounts shall be deemed to comprise a vendor's lien registerable on title to the Property. If the Vendor determines that the Purchaser is not entitled to the Rebate at any time prior to the Occupancy Date then it shall be entitled to demand and the Purchaser shall pay, an additional deposit equal to an amount that is 20% of the Purchase Price as set out on Page 3 of this Agreement.

Paragraph 13: The Purchaser covenants and agrees that in the event of any amendment, revival, novation, re-instatement of this Agreement, acquisition of Extras or upgrades, or any other action of the Purchaser results in the Rebate or HST Credit not being assignable, in whole or in part, then the Purchaser shall pay to the Vendor on the Closing Date the amount of the Rebate or HST Credit which the Vendor does not receive or become entitled to.

Paragraph 14: The Purchaser covenants and agrees that any breach by it of the provisions as set out in these foregoing sections dealing with HST shall be deemed to be a fundamental breach by the Purchaser and 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 Property as hereinbefore provided or contemplated), and/or may 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, may 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 contract, law or in equity.

**Limited Use Freehold Form
(Tentative Occupancy Date – POTL/CEC)**

SCHEDULE C

Terms of Occupancy Licence

If the purchaser takes Occupancy of the home before the date of Closing or is required to do so under the Purchase Agreement, then the following provisions shall apply:

1. The Purchaser shall be given Occupancy of the home on the Occupancy Date.
2. The Purchaser shall not be required to pay the balance due on the purchase price on the Occupancy Date unless the Occupancy Date is also the Closing Date.
3. The Purchaser shall pay to the Vendor a monthly **Occupancy Fee** from and after the Occupancy Date which shall not exceed an amount calculated as follows:
 - (i) interest calculated on a monthly basis on the unpaid balance of the purchase price at the prescribed rate as specified in subsection 19(1) of O.Reg 48/01 to the Condominium Act, 1998; plus
 - (ii) an amount reasonably estimated by the Vendor on a monthly basis for municipal realty taxes attributable by the Vendor to the home; plus
 - (iii) the projected monthly common expense contribution for the home's share of the common elements condominium corporation (CEC).

The Occupancy Fee shall be payable on the first day of each month in advance until the date of Closing. The Occupancy Fee is a fee for the use of the home and no part of it shall be credited as payments on account of the Purchase Price. If Occupancy does not occur on the first day of the month, the Purchaser shall pay on the Occupancy Date a pro rata amount for the balance of the month.

4. If the Vendor charges the Purchaser a monthly Occupancy Fee for longer than six (6) months and the monthly Occupancy Fee includes a projected contribution to the reserve fund for the CEC, then, with respect to the Occupancy Fee for each month after the sixth month, the Vendor shall hold in trust and remit to the CEC upon registering the declaration and description for the CEC, the portion of the monthly Occupancy Fee that represents the projected contribution to the reserve fund.
5. The Vendor, during the Purchaser's period of Occupancy,
 - (a) shall provide those services that the CEC corporation will have a duty to provide to owners after the registration of the CEC declaration and description;
 - (b) shall repair and maintain the CEC property in the same manner as the CEC corporation will have a duty to repair after damage and maintain after the registration of the CEC declaration and description;
 - (c) has the same right of entry to CEC property that the CEC corporation will have after the registration of the CEC declaration and description;
 - (d) may withhold consent to an assignment of the right to use CEC property; and
 - (e) may charge a reasonable fee for consenting to an assignment of the right to use CEC property.
6. The Vendor shall proceed with due diligence to register the CEC declaration and description. The Vendor shall, within 30 days of the registration of the CEC declaration and description, notify the Purchaser in writing of the date and instrument numbers of the registration, unless within that time the Purchaser receives a deed to the home that is in registerable form. Upon registration of the CEC declaration and description, the Vendor and Purchaser shall proceed to complete the title transfer on a date designated by the Vendor or its solicitor which shall be no later than sixty (60) days after the registration of the CEC declaration and description. If the Vendor for any reason whatsoever is unable to register the CEC declaration and description and therefore is unable to deliver a registerable Transfer/Deed to the Purchaser within twelve (12) months of the Occupancy Date, the Purchaser shall have the right for a period of 30 days after such twelve (12) month period, to give sixty (60) days written notice to the Vendor, to terminate the Occupancy licence and this Purchase Agreement. If the Purchaser gives notice of termination, the Purchaser shall give up vacant possession and pay the Occupancy Fee to the date of termination, after which this Purchase Agreement and Occupancy licence shall be terminated and section 7 of the Addendum applies.
7. The rights and duties described in section 5 above, apply despite any provision to the contrary in the *Residential Tenancies Act, 2006*.
8. The Vendor shall, on delivering to the Purchaser a Transfer Deed that is in registerable form or as soon as is practicable after delivery, refund to the Purchaser the portion of the monthly Occupancy Fee that the Purchaser has paid on account of municipal taxes attributable to the home in excess of the amount actually assessed against the home.

Limited Use Freehold Form
(Tentative Occupancy Date – POTL/CEC)

9. If the portion of the monthly Occupancy Fee that the Purchaser has paid on account of municipal taxes attributable to the home is insufficient to pay the amount actually assessed against the home, the Vendor may require the Purchaser to pay the difference between the two amounts.
10. Sections 149, 150, 151, 165, 166 and 167 and Part VII of the *Residential Tenancies Act, 2006*, do not apply to Occupancy and monthly Occupancy Fees charged under this Schedule C.
11. In accordance with section 58(1)4 of the *Residential Tenancies Act, 2006*, if the Occupancy arose by virtue of or collateral to the Purchase Agreement, then if the Purchase Agreement is terminated, the Occupancy shall correspondingly be terminated.
12. The Purchaser shall maintain the home in a clean and sanitary condition and not make any alterations or improvements without the prior written approval of the Vendor which may not be unreasonably withheld.
13. The Purchaser shall be responsible for all utility, telephone expenses, cable television service, or other charges and expenses billed directly to the occupant of the home by the supplier of such services.
14. The Purchaser shall as at the Occupancy Date insure the home for the full replacement value thereof and provide a copy of the insurance certificate to the Vendor. The Vendor is not liable for the Purchaser's loss occasioned by fire, theft or other casualty, unless caused or contributed to by the Vendor.
15. The Vendor and Purchaser may agree upon additional provisions relating to Occupancy, provided such provisions do not derogate from, do not conflict with and are not inconsistent with provisions of this Schedule C.



Confirmation of Co-operation and Representation



Form 320

For use with the Code of Ethics

BUYER:

SELLER: Stateview Homes (Noo Towns) Inc Phase 2

For the transaction or the property known as lot 120 121 [FX] [OS] markham

DEFINITIONS AND INTERPRETATIONS: For the purpose of this Confirmation of Co-operation and Representation, "Seller" includes a vendor, a landlord, a lessor, or a prospective, seller, vendor, landlord or lessor and "Buyer" includes a purchaser, a tenant, leasee or a prospective buyer, purchaser, tenant or leasee and "sale" includes a lease, and "Agreement of Purchase and Sale" includes an Agreement to Lease. Co-operation shall be deemed to include other remuneration.

The following information is confirmed by the undersigned salesperson/broker representative(s) of the Brokerage(s). If a Co-operating Brokerage is involved in the transaction, the Brokerages agree to co-operate, in consideration of, and on the terms and conditions as set out below.

DECLARATION OF INSURANCE: The undersigned salesperson/broker representative(s) of the Brokerage(s) hereby declare that he/she is insured as required by the Real Estate and Business Brokers Act, 2002, (REBBA).

1. LISTING BROKERAGE

- a) The Listing Brokerage represents the interests of the Seller in this transaction. It is further understood and agreed that:
 - 1) The Listing Brokerage is not representing or providing Customer Service to the Buyer. (If the Buyer is working with a Co-operating Brokerage, Section 3 is to be completed by Co-operating Brokerage)
 - 2) The Listing Brokerage is providing Customer Service to the Buyer.
- b) **MULTIPLE REPRESENTATION:** The Listing Brokerage has entered into a Buyer Representation Agreement with the Buyer and represents the interests of the Seller and the Buyer, with their consent, for this transaction. The Listing Brokerage must be impartial and equally protect the interests of the Seller and the Buyer in this transaction. The Listing Brokerage has a duty of full disclosure to both the Seller and the Buyer, including a requirement to disclose all factual information about the property known to the Listing Brokerage. However, the Listing Brokerage shall not disclose:
 - That the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
 - That the Buyer may or will pay more than the offered price, unless otherwise instructed in writing by the Buyer;
 - The notation of or personal information about the Seller or Buyer, unless otherwise instructed in writing by the party to which the information applies, or unless failure to disclose would constitute fraudulent, unlawful or unethical practice;
 - The price the Buyer should offer or the price the Seller should accept;
 - And, the Listing Brokerage shall not disclose to the Buyer the terms of any other offer.

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

Additional comments and/or disclosures by Listing Brokerage: (e.g. The Listing Brokerage represents more than one Buyer offering on this property.)

2. PROPERTY SOLD BY BUYER BROKERAGE - PROPERTY NOT LISTED

- The Brokerage Does represent the Buyer and the property is not listed with any real estate brokerage. The Brokerage will be paid:
 - by the Seller in accordance with a Seller Customer Service Agreement;
 - or by the Buyer directly.

Additional comments and/or disclosures by Buyer Brokerage: (e.g. The Buyer Brokerage represents more than one Buyer offering on this property.)

As per agreement.

INITIALS OF BUYER(S)/SELLER(S)/BROKERAGE REPRESENTATIVE(S) (Where applicable)

BUYER CO-OPERATING/BUYER BROKERAGE SELLER LISTING BROKERAGE

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3. Co-operating Brokerage completes Section 3 and Listing Brokerage completes Section 1.

CO-OPERATING BROKERAGE- REPRESENTATION:

- a) The Co-operating Brokerage represents the interests of the Buyer in this transaction.
- b) The Co-operating Brokerage is providing Customer Service to the Buyer in this transaction.
- c) The Co-operating Brokerage is not representing the Buyer and has not entered into an agreement to provide customer service(s) to the Buyer.

CO-OPERATING BROKERAGE- COMMISSION:

- a) The Listing Brokerage will pay the Co-operating Brokerage the commission as indicated in the MLS® information for the property _____ to be paid from the amount paid by the Seller to the Listing Brokerage. (Commission As Indicated in MLS® Information)
- b) The Co-operating Brokerage will be paid as follows: as per agreement

Additional comments and/or disclosure by Co-operating Brokerage (e.g., The Co-operating Brokerage represents more than one Buyer offering on this property.)

Commission will be payable as described above, plus applicable taxes.

COMMISSION TRUST AGREEMENT: If the above Co-operating Brokerage is receiving payment of commission from the Listing Brokerage, then the agreement between Listing Brokerage and Co-operating Brokerage further includes a Commission Trust Agreement, the consideration for which is the Co-operating Brokerage procuring an offer for a trade of the property, acceptable to the Seller. This Commission Trust Agreement shall be subject to and governed by the MLS® rules and regulations pertaining to commission trusts of the Listing Brokerage's local real estate board, if the local board's MLS® rules and regulations so provide. Otherwise, the provisions of the OREA recommended MLS® rules and regulations shall apply to this Commission Trust Agreement. For the purpose of this Commission Trust Agreement, the Commission Trust Account shall be the account noted in Section 3 above. The Listing Brokerage hereby declares that all monies received in connection with the trade shall constitute a Commission Trust and shall be held, in trust, for the Co-operating Brokerage under the terms of the applicable MLS® rules and regulations.

SIGNED BY THE BROKER/SALESPERSON REPRESENTATIVE(S) OF THE BROKERAGE(S) (Where applicable)

Bay Street Group Inc. (Name of Co-operating Brokerage) 6301 - 8300 Woodbine Ave, Markham, ON L3R 9Y7 Tel: 905-909-0101 Fax: 905-909-0202 Designated by: Sep-08-2020 (Authorized to bind the Co-operating Brokerage) (Date) YINAN XIA (Print Name of Salesperson/Broker/Broker of Record)	(Print Name of Listing Brokerage) _____ Tel: _____ (Authorized to bind the Listing Brokerage) (Date) _____ (Print Name of Salesperson/Broker/Broker of Record)
---	---

CONSENT FOR MULTIPLE REPRESENTATION (To be completed only if the Brokerage represents more than one client for the transaction)

The Buyer/Seller consent with their initials to their Brokerage representing more than one client for this transaction.

BUYER'S INITIALS SELLER'S INITIALS

ACKNOWLEDGEMENT

_____ (Signature of Buyer)	I acknowledge the above information. 02/04/2021 _____ (Date)	DocuSigned by:  _____ (Signature of Seller)	2/6/2021 _____ (Date)
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RE The Brokerage (REALTOR®, REALTOR®, MDR, etc.) is using DocuSign and disclosed upon execution or control by the Commissioned Licensee (including EPCS) and liability for the same is reserved to a real estate agent or salesperson of the Commissioned Licensee.

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Appendix “E”

External Sender - From: ("Merskey, Alan" <amerskey@cassels.com>)
This message came from outside your organisation.

David, Denna,

I am writing further to our call of January 19, 2024.

While a number of positions were expressed, it would not be useful to belabour them further here. I confirm as follows:

1. It is the Receiver's view that in light of Justice Steele's decision of December 22, there is no scenario in which your clients can achieve priority over the secured creditors, and therefore have any entitlement to the current and future proceeds of the estate. As a result, and as advised on the call, the Receiver intends to proceed with the distribution of proceeds of realization as they arise, including those now existing, and without regard to your clients' claims;
2. You have asked the Receiver to provide copies of any insurance that might affect your intended class proceeding. As noted, the Receiver does not have possession of that information. The Receiver is prepared to seek that information from the Stateview principals, as long as we have your consent to disclose the source of the inquiry; and
3. Denna has under separate cover inquired as to the status of certain notices that might assist homeowners in submitting their warranty claims to Tarion. We are making inquiries on that question and will respond in due course.

Best regards

Cassels | **ALAN MERSKEY** *(he/him/his)*
Partner
t: +1 416 860 2948
e: amerskey@cassels.com

Cassels Brock & Blackwell LLP | [cassels.com](https://www.cassels.com)
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto, Ontario M5H 0B4 Canada

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Appendix “F”



180 Dundas Street West, Suite 1200
Toronto, Ontario M5G 1Z8
www.sotosclassactions.com

David Sterns

Phone: 416.977.5229

Email: dsterns@sotos.ca

File No: 29217

January 29, 2024

WITH PREJUDICE

VIA EMAIL to amerskey@cassels.com

Alan Merskey
Cassels, Brock & Blackwell LLP
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St., Toronto ON M5H 0B4

Dear Mr. Merskey:

Re: Stateview et al. ats Mehta (Court File No. CV-23-00706866-00CP)

We are writing in response to your e-mail dated January 23, 2024, where you confirmed a number of steps the Receiver expects to take in respect of the ongoing Receivership Proceedings and above-captioned matter (the “**Class Action**”). Our responses to each issue set out in your e-mail is below.

1) Distribution of funds without holdbacks / regard to the Class Action

You state that the Receiver interprets Justice Steele’s decision in respect of the Tarion motion as foreclosing the possibility of our client being successful in making any trust claims under the *Condominium Act* that rank ahead of the priority of the secured creditors. Accordingly, the Receiver will distribute the sale proceeds without holding back any amounts.

As you are aware, the issue of a statutory trust under the *Condominium Act* was not put before Justice Steele in the Tarion motion. Her Honour’s decision was based on an express trust created by contract and subordinated by contract. It did not deal with a statutory trust and we are not aware of any case law that would extend the ruling to a statutory trust. The Receiver’s view is therefore based on conjecture. The Receiver could have asked for a determination from Justice Steele on this point but chose not to do so.

Further, in the Receiver’s materials for a motion seeking various approvals before Justice Osborne on November 14, 2023, the Receiver disclosed the existence of our client’s *Condominium Act* trust claims to the Court and stated that there may need to be a separate motion to resolve same.

Our view is that the Receiver’s reliance on Justice Steele’s decision is incorrect. We will ask that the issue be determined in the Class Action. We therefore ask that the Receiver hold back from distribution an amount sufficient to discharge the *Condominium Act* trust claim in full. If the Receiver ignores the statutory trust that we allege, then it does do so with knowledge that it may be liable for any amounts our client may establish as having priority over the claims of the secured creditors.



Moreover, the Receiver has a duty to value the claims made against it, including our client's trust-based claims under the *Condominium Act*. Such value will be equal to the percentage value of the common elements for each of the Projects as compared to the total value of the deposits collected. The Receiver is uniquely positioned to conduct this valuation given its informational advantage vis-à-vis our client, its obligations to all creditors including the homebuyers, and its refusal thus far to produce any records that may assist our client in carrying out such a valuation.

Please confirm whether the Receiver will value our trust-based claim.

2) Insurance Policies

Counsel for Carlo Taurasi and Dino Taurasi have separately confirmed that there are no insurance policies that would satisfy judgement for the Class Action or reimburse the directors and officers of the Stateview companies for any amounts they pay in satisfaction of same. Unless the Receiver has any reason to suspect the contrary, we do not require the Receiver's assistance on this issue at this time.

3) Financial Records in the Possession of the Receiver

Please confirm the following:

- a) The Stateview entities for which the Receiver does and does not have financial records in its possession;
- b) The format of any financial records the Receiver has in its possession;
- c) Whether the Receiver can confirm it will continue to preserve these records once the Receivership Proceedings conclude; and
- d) Who the Receiver believes has possession of the financial records of the non-receivership Stateview entities.

Kindly provide us with your response by no later than **February 7, 2024**.

Yours truly,
SOTOS LLP

A handwritten signature in black ink that reads 'David Sterns'.

David Sterns

DS/

c. Jeffrey Larry, Paliare Roland Rosenberg Rothstein LLP, jeff.larry@paliareroland.com

Appendix “G”



**First Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Stateview Homes (Minu Towns) Inc.,
Stateview Homes (Nao Towns) Inc.,
Stateview Homes (Nao Towns II) Inc.,
Stateview Homes (On the Mark) Inc.,
TLSFD Taurasi Holdings Corp.,
Stateview Homes (High Crown Estates) Inc.,
Highview Building Corp Inc.,
Stateview Homes (BEA Towns) Inc., and
Stateview Homes (Elm&Co) Inc.**

May 30, 2023

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COURT FILE NUMBERS: CV-23-00698395-00CL
CV-23-00698632-00CL
CV-23-00698637-00CL
CV-23-00698576-00CL
CV-23-00699067-00CL

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

B E T W E E N:

KINGSETT MORTGAGE CORPORATION AND DORR CAPITAL CORPORATION
APPLICANT

- AND -

**STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (NAO TOWNS)
INC., STATEVIEW HOMES (ON THE MARK) INC., TLSFD TAURASI HOLDINGS
CORP. AND STATEVIEW HOMES (HIGH CROWN ESTATES) INC.**
RESPONDENTS

DORR CAPITAL CORPORATION

APPLICANT

- AND -

STATEVIEW HOMES (BEA TOWNS) INC. AND HIGHVIEW BUILDING CORP INC.
RESPONDENTS

**ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR
CAPITAL CORPORATION**

APPLICANT

- AND -

**STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI AND
CARLO TAURASI**
RESPONDENTS

MERIDIAN CREDIT UNION**APPLICANT****- AND -****STATEVIEW HOMES (ELM&CO) INC.****RESPONDENTS**

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

**FIRST REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

MAY 29, 2023**1.0 Introduction**

1. The Ontario Superior Court of Justice (the “Court”) issued separate receivership orders on May 2, 2023 (the “May 2nd Receivership Orders”) appointing KSV Restructuring Inc. (“KSV”) as the receiver and manager (the “Receiver¹”) of the property, assets and undertaking owned by the following entities in the Stateview Group of Companies (the “Stateview Group”), including their real property:
 - a) Stateview Homes (Nao Towns II) Inc. (“Nao Phase II”), pursuant to an action commenced by Atrium Mortgage Corporation (“Atrium”);
 - b) Stateview Homes (BEA Towns) Inc. (“BEA”), pursuant to an application commenced by Dorr Capital Corporation (“Dorr”);
 - c) Highview Building Corp Inc. (“Highview”), pursuant to an application commenced by Dorr; and
 - d) Stateview Homes (Nao Towns) Inc. (“Nao Phase I”), Stateview Homes (Minu Towns) Inc. (“Minu”), Stateview Homes (High Crown Estates) Inc. (“High Crown”), Stateview Homes (On the Mark) Inc. (“On the Mark”) and TLSFD Taurasi Holdings Corp. (“Taurasi Holdings”), pursuant to an application commenced by Kingsett Mortgage Corporation (“Kingsett”) and Dorr.

¹ Includes KSV’s role as receiver and manager of Elm, as defined below.

2. The Court issued an order (the “May 18th Receivership Order” and together with the May 2nd Receivership Orders, the “Receivership Orders”) appointing KSV as Receiver of the property, assets and undertaking of Stateview Homes (Elm&Co) Inc. (“Elm”), including its real property, pursuant to an application by Meridian Credit Union Limited (“Meridian” and together with Atrium, Dorr, and Kingsett, the “Mortgagees”).
3. Herein the entities subject to the Receivership Orders are collectively referred to as the “Receivership Companies”; the property owned by each of the Receivership Companies is referred to as the “Property”; the real property owned by each of the Receivership Companies is referred to as a “Real Property”; and collectively, all of the real properties are referred to as the “Real Properties”.
4. Copies of the Receivership Orders are available on the Receiver’s case website by clicking on the hyperlinks below.
 - a) [NAO Phase II receivership order](#)
 - b) [BEA receivership order](#)
 - c) [Highview receivership order](#)
 - d) [Nao Phase I, Minu, High Crown, On the Mark and Taurasi Holdings receivership order](#)
 - e) [Elm receivership order](#)
5. As more fully detailed below, a principal focus of the receivership proceedings at this time is to conduct a sale process (the “Sale Process”) for all of the Real Properties, except for the On the Mark Real Property, which is currently at an advanced stage of development, as more fully discussed below.
6. This report (the “Report”) is filed by KSV in its capacity as Receiver.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about these proceedings;
 - b) provide the Court with the Receiver’s material findings since its appointment;
 - c) advise the Court of the status of purchase agreements that were entered into between homebuyers (the “Homebuyers”) and the Receivership Companies prior to these receivership proceedings;
 - d) detail the proposed Sale Process;
 - e) discuss the status of the On the Mark project;
 - f) discuss the steps that the Receiver has taken to preserve and obtain data and information related to the Receivership Companies;

- g) summarize the Receiver's activities since the start of these receivership proceedings; and
- h) recommend that this Court issue orders:
 - i. approving the Sale Process; and
 - ii. approving this Report and the Receiver's activities as set out in this Report.

1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon: (i) discussions with the Stateview Group's management ("Management"); (ii) the Receivership Companies' unaudited financial information; (iii) information provided by the Mortgagees; (iv) discussions with various stakeholders in these proceedings (including their legal representatives); (v) the Information Officer (as defined below); (vi) the Stateview Group's external legal counsel, Norton Rose Fulbright Canada LLP ("Norton Rose") and (vii) the application materials (collectively, the "Information").
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Report by any party.
3. Additional background information regarding the Receivership Companies and the reasons for the appointment of the Receiver are provided in the respective application materials of the Mortgagees. Copies of the Court materials filed to-date in these proceedings are available on the [Receiver's website](#) (the "Website"). The Website also includes information for Homebuyers who purchased homes from the Receivership Companies.

2.0 Background

2.1 The Stateview Group

1. The Stateview Group is a real estate developer with its head office in Vaughan, Ontario. The Stateview Group primarily develops low-rise residential projects in Southern Ontario.
2. Several Stateview Group companies are not subject to receivership proceedings (the "Non-Receivership Companies"), including Stateview Construction Ltd. ("SV Ltd.") which provides administrative and management services to companies in the Stateview Group. The Receiver understands that all Stateview Group employees are employed by SV Ltd.

3. The principals of the Stateview Group are Carlo Taurasi, the Chief Executive Officer and Dino Taurasi, the President (together, the “Taurasis”).

2.2 Toronto-Dominion Bank

1. The Stateview Group previously had bank accounts (the “TD Accounts”) at Toronto Dominion Bank (“TD Bank”). On March 23, 2023, TD Bank commenced an action against various Stateview Group companies and other parties, including, *inter alia*, the Receivership Companies and the Taurasis (collectively, the “Defendants”) to attempt to recover an approximate \$37 million loss resulting from a “cheque kiting” scheme that took place between April 2022 to March 2023. The Taurasis allege that the Stateview Group’s former Chief Financial Officer, Daniel Ciccone, was responsible for the scheme.
2. Certain of the Defendants, including all of the Receivership Companies and the Taurasis (together, the “Settlement Parties”) entered into a Settlement Agreement with TD Bank dated March 31, 2023 (the “TD Settlement Agreement”), pursuant to which, *inter alia*, they acknowledged their joint and several liability to TD Bank arising out of the kiting scheme. It is the Receiver’s understanding that none of the Mortgagees were privy to or aware of the TD Settlement Agreement until after it was completed. In connection with the Settlement Agreement, TD Bank was granted (and subsequently registered) mortgages on certain Real Property owned by Taurasi Holdings, BEA, Nao Phase II, Highview and Elm to secure the amounts owing to TD Bank under the Settlement Agreement (collectively, the “TD Mortgages”). The Receiver has not yet made any independent inquiries into the circumstances giving rise to the granting and registration of the TD Mortgages.
3. On April 4, 2023, the Court issued an order (the “TD Order”) approving the implementation of the TD Settlement Agreement and appointing BDO Canada Limited as the information officer (the “Information Officer”) in respect of the Stateview Group. A copy of the TD Order is attached as Appendix “A”.
4. The TD Settlement Agreement requires that the Settlement Parties pay approximately \$37 million in instalments over an approximately three-month period, including a \$3.150 million payment upon the making of the TD Order, inclusive of an “administration fee”.
5. On May 15, 2023, the Receiver was advised by the Information Officer that the \$3.150 million payment was made to TD Bank. On May 16, 2023, Norton Rose advised the Receiver in an email that Melissa Taurasi, Carlo Taurasi’s wife, funded \$2.2 million and Dino Taurasi funded the balance.
6. Pursuant to the TD Order, the Information Officer’s mandate is to:
 - a) gain an understanding of the Stateview Group’s governance policies with regards to treasury functions and other functional areas as required;
 - b) review the historical source and application of funds received and disbursed by the Stateview Group and the deposit of funds into the bank accounts of the Stateview Group;

- c) monitor on an ongoing basis, the source and application of funds received and disbursed by the Stateview Group, and the deposit of funds into the bank accounts of the Stateview Group;
- d) monitor the activities of the Stateview Group to ensure that appropriate cash management is being undertaken at all times;
- e) review the books and records and computer files, records, software and other systems of the Stateview Group as necessary; and
- f) report to TD Bank and the Stateview Group from time to time on the financial circumstances of the Stateview Group, including without limitation, with respect to their assets, liabilities, cash flows, intercompany transfers and payments to related parties or shareholders.

2.3 The Receivership Companies

1. Each of the Receivership Companies is a single-purpose real estate development company that owns a specific project (each a "Project", and collectively the "Projects"), except for Taurasi Holdings which owns four industrial properties. The Real Properties are located in Southern Ontario.
2. The Project names, municipal addresses and status of the Projects is provided in the table below.

Project	Address	Status
Minu Towns	9940 Ninth Line, Markham	Raw land
Nao Towns	5112, 5122, 5248 14th Avenue, Markham	Raw land
Nao Towns II	7810, 7822, 7834, 7846, McCowan Road, Markham	Raw land
Nashville (Highview)	89, 99 Nashville Road, Kleinberg,	Raw land
BEA Towns	189 Summerset Drive, Barrie	Raw land
Elm	12942 York Durham Line, Stouffville	Raw land
High Crown	13151 – 13161 Keele Street, King City	Under construction, approximately 30% complete
On the Mark	16 th Avenue and Woodbine Avenue, Markham	Under construction, approximately 90% complete

2.3.1 Industrial Properties

1. Taurasi Holdings owns four industrial properties totaling 116,065 square feet of leasable area which is currently 100% occupied (the “Industrial Properties”). The Industrial Properties are located at the following municipal addresses in Vaughan, Ontario:
 - 301 Bradwick Drive;
 - 596 Oster Lane;
 - 448 North Rivermede Road; and
 - 6-8 Bradwick Drive.
2. The Industrial Properties are managed by Argo Property Management Ltd. (“Argo”), a third-party property management company.
3. The Receiver has advised each of the tenants of the Industrial Properties (the “Tenants”) of the receivership and has directed them to pay rent directly to the Receiver during these proceedings. The Industrial Properties generate approximately \$130,000 in monthly rent, including HST.

3.0 Creditors

1. The table below provides a summary of the amounts of the mortgages registered on title to each of the Real Properties as of the dates of the Receivership Orders.

<i>(Unaudited; \$000s)</i>	
Real Property²	Amount Owning
Minu	67,632
Nao Phase I	38,905
High Crown	28,515
On the Mark	18,471
Taurasi Holding	30,388
NAO Phase II	45,299
Highview	16,438
BEA	58,972
Elm	45,325
Total	349,945

² The table excludes the TD Bank mortgage. Interest and costs continue to accrue on each mortgage. All amounts are subject to confirmation.

- As more fully detailed in each of the Mortgagees' materials seeking the appointment of the Receiver, certain of the mortgages in the table are cross-collateralized, such that the shortfall on certain Real Properties can be satisfied in full or in part from the surplus on certain other Real Properties. This will be fully detailed in a future Receiver's report, as required.
2. In addition to the above, several parties who provided services to the Projects have registered construction liens on certain of the Real Properties, including construction trades and real estate consultants. The Receiver is continuing to review and assess the various construction liens, including seeking further information from lienholders, where necessary.
 3. Certain of the Receivership Entities also are in arrears in respect of municipal taxes, as well as amounts owing to Canada Revenue Agency ("CRA"). In regard to the amounts owing to CRA, the Receiver received a letter from CRA dated May 16, 2023 indicating that Taurasi Holdings owes CRA \$250,271.75 in respect of unpaid harmonized sales tax ("HST"), approximately \$130,624.22 of which CRA asserts is a trust claim.

4.0 Receiver's Preliminary Findings

4.1 Overview

1. The following section provides a high-level summary of certain of the Receiver's preliminary findings. The findings in this section are subject to change based on the Receiver's further investigations. The Receiver continues to review and consider the issues summarized in this section, as well as other issues, including but not limited to payments from Receivership Companies to non-arm's length parties, including Non-Receivership Companies and related individuals. In due course, the Receiver will consider whether any relief should be sought in respect of these transactions, in consultation with affected parties.

4.2 Cash

1. The Stateview Group, including the Receivership Companies, presently have bank accounts at Bank of Montreal ("BMO"), which accounts were opened following the TD Settlement Agreement. The Receiver also understands that certain of the Non-Receivership Companies have one or more accounts at Royal Bank of Canada.

2. Immediately after the May 2nd Receivership Orders were granted, the Receiver communicated with the Information Officer and with the Stateview Group's representatives to determine the cash balances in each Receivership Companies' bank accounts, including Elm, as the Receiver was aware that Meridian intended to forthwith bring an application for the appointment of KSV as receiver of that entity. Concurrently, the Receiver advised BMO that the Receivership Companies' bank accounts should be restricted to deposit only. KSV had no authority over the Elm account at the time, so it was unable to place any restrictions on the Elm account. The Receiver, however, advised the Stateview Group that it was its view that any monies in Elm's account should only be used for Elm's purposes given the pending receivership application (to which the Stateview Group consented).
3. The Information Officer advised the Receiver that, as of May 1, 2023, the Receivership Companies' accounts had the following balances³:

(Unaudited; \$000)	Cash Balance
Minu	14
Nao Phase I	75
High Crown	21
On the Mark	55
Taurasi Holdings	151
Highview	Nil
BEA	Nil
Elm	779
Total	1,095

4.2.1 Elm Cash

1. On May 8, 2023, the Receiver learned that the Stateview Group had used funds in the Elm account to pay costs unrelated to Elm.
2. On May 9, 2023, the Receiver's counsel, Paliare Roland Rosenberg Rothstein LLP ("Paliare")⁴, wrote to Norton Rose to obtain details regarding the use of Elm funds since May 1, 2023. The letter stated, "we trust that Stateview Elm's cash not be further dissipated in advance of the hearing of the receivership application and that any remaining monies should be, at the very least, segregated until the return of the receivership application".
3. On May 10, 2023, Norton Rose responded to Paliare's letter to confirm that Elm would not disburse any further funds in advance of the receivership application for Elm. Norton

³ The Receiver has been advised that Highview does not have a bank account and that NAO I and NAO II share a bank account.

⁴ Paliare is acting as counsel to the Receiver on the NAO Phase II, BEA, Highview and Elm receiverships. Cassels is counsel to the Receiver on the NAO Phase I, Minu, On the Mark, High Crown and Taurasi Holdings receiverships.

Rose further advised that Elm's then current bank account balance was approximately \$450,000.

4. On May 12, 2023, Cassels Brock & Blackwell LLP ("Cassels") wrote to the Information Officer asking that the Information Officer "promptly deliver to KSV a full accounting and reconciliation of all disbursements from accounts of any of the Stateview companies subject to the Stateview Receiverships to any related persons or companies" A copy of this letter is attached as Appendix "B".
5. On May 17, 2023, Norton Rose advised that Elm's bank balance was then approximately \$307,000. A copy of the email from Norton Rose is attached as Appendix "C".
6. On May 18, 2023, following KSV's appointment as Receiver of Elm, BMO advised the Receiver that the balance in Elm's bank account was approximately \$303,000.
7. Since May 18, 2023, the Receiver has been provided with support for certain disbursements in the Elm bank account for the period after May 8, 2023. Certain disbursements relate to professional fees, as well as related-party payments that do not appear to relate to the Elm project. The Receiver continues to review this issue.

4.2.2 On the Mark HST Proceeds

1. 38 of the 70 home sales for the On the Mark project were completed prior to the May 2nd Receivership Orders. On the Mark collected approximately \$4 million of HST on these sales.
2. On April 12, 2023, Kingsett issued its Notice of Intention to Enforce Security to On the Mark (the "OTM Notice").
3. On May 9, 2023, the Information Officer provided the Receiver with a schedule reflecting the use of the closing proceeds, including amounts that are subject to a CRA trust claim. The schedule shows that between April 11 and April 24, 2023, the Stateview Group used the monies to pay, among other things:
 - approximately \$2.23 million for payables owing by certain of the Receivership Companies, including On the Mark, Minu and High Crown;
 - approximately \$266,000 for payables owing by certain Non-Receivership Companies;
 - approximately \$452,000 for SV Ltd. payroll; and
 - approximately \$440,000 for professional fees.

4.3 Homebuyers

1. Prior to these receivership proceedings, each of the Receivership Companies, other than Taurasi Holdings, sold freehold homes to Homebuyers, each of whom paid deposits.

2. As freehold homes, the Receivership Companies were not required to keep the deposits in trust. The Receiver has been advised by the Stateview Group's representatives that all deposits have been spent; however, the use of those funds has not yet been determined and the Receiver has not, as of the date of this Report, commenced a tracing exercise.
3. As reflected in the table below, the Homebuyer deposits total approximately \$77.2 million.

Project	(unaudited)	
	# of Homebuyers	Deposits (\$000s)
Minu	147	19,208
Nao Phase I	96	7,680
High Crown	47	4,933
On the Mark ⁵	32	4,218
Nao Phase II	76	7,617
Highview	4	None
BEA	218	17,440
Elm	145	16,076
Total	765	77,172

4. Since being appointed, the Receiver has corresponded with several Homebuyers regarding their deposits and the status of their purchase agreements. As a result of concerns raised by Homebuyers, and to communicate a consistent message to Homebuyers, the Receiver posted a notice to Homebuyers on its [Website](#) on May 5, 2023. The notice advises of the status of the deposits and discusses deposit protection provided by Tarion Warranty Corporation ("Tarion"), an organization that, among other things, provides deposit insurance to homebuyers and administers Ontario's new home warranty program.
5. The Receiver has also corresponded with Tarion's legal counsel, Torys LLP, to provide it with information concerning these proceedings and the status of the deposits, following which Tarion posted a notice on its website. Tarion's notice is attached as Appendix "D".
6. The Receiver intends to keep Homebuyers and Tarion advised of issues related to the developments in which they purchased their homes, as well as the status of their deposits.

⁵ Excludes deposits paid by Homebuyers for the On the Mark Project who have closed their sales.

7. The Receiver also understands that the Stateview Group planned to develop another project called On the Mark 2. As of the date of the May 2nd Receivership Orders, the Stateview Group, through an entity known as Stateview Homes Ltd. (“SHL”), had negotiated an option to purchase the On the Mark 2 lands, which agreement is subject to an ongoing dispute between the Stateview Group and the vendor. It is the Receiver’s understanding that, notwithstanding that SHL has not completed its acquisition of this real property, it sold homes and took deposits from purchasers on this project. These deposits were not held in trust and, consistent with all other deposits paid to the Stateview Group, appear to have been spent.

5.0 Sale Process

1. The recommended Sale Process is for all Real Properties, together with all other property, assets and undertaking of the Receivership Companies related to the Real Properties, other than On the Mark. Information regarding the status of, and next steps for, the On the Mark project is provided in Section 6 below.

5.1 Realtor Selection Process

1. Based on discussions with the Mortgagees (which differ by Project), the Receiver invited two national real estate brokerages to submit proposals to market for sale the Real Properties owned by Minu, Nao Phase I, High Crown and Taurasi Holdings and four national real estate brokerages to submit proposals to market for sale the Real Properties owned by Nao Phase II, Highview, BEA and Elm (collectively, the “RFP”).
2. The RFP process provided the Receiver’s criteria for selecting the successful realtor or realtors. The Receiver requested that proposals be submitted by 5pm on May 17, 2023. A copy of the RFP materials is provided as Appendix “E”.
3. All realtors submitted proposals by the RFP deadline (the “Realtor Proposals”) and presented their proposals to the Receiver and the Mortgagees at meetings on May 19 and 23, 2023.
4. In consultation with the Mortgagees, the Receiver selected: (i) Cushman & Wakefield ULC to sell the NAO Phase II and Elm Projects; (ii) Colliers International to sell the BEA and Highview Projects; (iii) Jones Lang LaSalle Real Estate Services, Inc. to sell the Industrial Properties and the High Crown Project; and (iv) CBRE Limited to sell the NAO Phase I and Minu Projects. These decisions were based on, among other things, each realtors’ knowledge of the specific Projects, their familiarity with the applicable market, their proposed marketing processes, their commission structures, the experience of their teams and feedback from the Mortgagees.

5.2 Sale Process

- The recommended Sale Process is set out in the table below. The timelines are based on KSV's extensive experience selling real estate in court-supervised proceedings, as well as guidance from the realtors. The timelines assume that the Court approves the Sale Process on the return of this motion and that the Sale Process launches on June 7, 2023. To the extent that the Sale Process is delayed, the deadlines may be correspondingly adjusted.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Underwriting</i>		
Prepare marketing materials	<ul style="list-style-type: none"> ➤ Realtors and the Receiver to: <ul style="list-style-type: none"> ○ prepare a teaser and confidential information memorandum (“CIM”) for each Project; ○ populate virtual data rooms for each Project; and ○ prepare a confidentiality agreement (“CA”). 	As soon as possible, but no later than June 21, 2023
Prospect Identification	<ul style="list-style-type: none"> ➤ For each Real Property, realtors to: <ul style="list-style-type: none"> ○ develop master prospect lists; ○ prioritize prospects; ○ have pre-marketing discussions with targeted prospects; ○ engage in discussions with planners, consultants and municipalities; and ○ consult with the Receiver regarding the above. 	
Consulting Reports	<ul style="list-style-type: none"> ➤ The Receiver is arranging for updated and/or new consulting reports to facilitate due diligence by interested parties. These will be made available in the data rooms. 	
<i>Phase 2 – Marketing and Diligence</i>		
Stage 1	<ul style="list-style-type: none"> ➤ Mass market introduction, including: <ul style="list-style-type: none"> ○ sending offering summary and marketing materials, including marketing brochure to each realtors' client base, including specifically targeted prospects; ○ publishing the acquisition opportunity in such journals, publications and online as the realtor and the Receiver believe appropriate to maximize interest in this opportunity; ○ posting “for sale” signs on each Real Property, to the extent applicable; ○ engaging in direct canvassing of most likely prospects and tailoring the pitch to each of these candidates based on the brokers knowledge of these parties; 	Estimated to be 4 to 5 weeks from launch.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
	<ul style="list-style-type: none"> o posting the acquisition opportunity on MLS for each Project on an unpriced basis, if requested by the Receiver; and o meeting with prospective bidders to explain the potential of each site. ➤ Receiver and its legal counsel to prepare a Vendor's form of Purchase and Sale Agreement (the "PSA") which will be made available to prospective purchasers in each virtual data room. ➤ Realtors to provide additional information to qualified prospects which execute the CA, including access to data rooms and a copy of the CIM. ➤ Realtors and Receiver to facilitate diligence by interested parties. 	
Stage 2 – Bid Deadline	<ul style="list-style-type: none"> ➤ Prospective purchasers to submit offers in the form of the PSA, with any changes to the PSA blacklined. 	Estimated bid date is between July 19 and July 26, 2023, based on, <i>inter alia</i> , the date on which the Sale Process launches, market feedback and consultation with the realtors.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 3 – Offer Review and Negotiations</i>		
Short-listing of Offers and Selection of Successful Bids	<ul style="list-style-type: none"> ➤ Realtors to collect, summarize and provide to the Receiver commentary on initial bids received to the Receiver. Receiver will consult with Mortgagees on the offers received. ➤ Short listing of bidders. ➤ Further bidding - bidders may be asked to improve their offers. The Receiver may invite parties to participate in as many rounds of bidding as is required to maximize the consideration and minimize closing risk. The Receiver may also seek to clarify terms of the offers submitted and to negotiate such terms. ➤ The Receiver will be at liberty to consult with Mortgagees regarding the offers received, subject to any confidentiality requirements that the Receiver believes appropriate. ➤ The Receiver will select the successful bidder(s), having regards to, among other things: <ul style="list-style-type: none"> o total consideration (cash and assumed liabilities); o form of consideration, including the value of any carried interest; o third-party approvals required, if any; o conditions, if any, and time required to satisfy or waive same; and o such other factors affecting the speed and certainty of closing and the value of the offers as the Receiver considers relevant. 	Two weeks from offer bid deadline
Selected bidders to perform final due diligence	<ul style="list-style-type: none"> ➤ Bidders to address their conditions. ➤ Back up bidders will be kept “warm” in order to have options in case selected bidder does not close. 	30 to 60 days from selection of successful bidders
Sale Approval Motion(s) and Closing(s)	<ul style="list-style-type: none"> ➤ Upon execution of definitive transaction documents, the Receiver will seek Court approval of the successful offer(s), on not less than 7 calendar days’ notice to the service list and registered secured creditors. 	15 to 30 days from the date that the selected bidder confirms all conditions have been satisfied or waived
Closings	<ul style="list-style-type: none"> ➤ Following Court approval 	ASAP

2. Additional terms of the Sale Process include:
- a) the NAO Phase I and NAO Phase II properties will have the same bid deadline so that interested parties can submit an offer for both. Interested parties will be required to provide a value for each Real Property given the stakeholders on each Real Property is different;
 - b) bidders will have the opportunity to submit offers on an *en bloc* basis, provided that they provide separate values for each Real Property. (It is possible that the bid dates for all Real Properties may not align. In the event that an *en bloc* buyer emerges, which the Receiver considers unlikely, the Receiver will work with the bidder to structure its offer accordingly);
 - c) the Real Properties will be marketed and sold on an “as-is, where-is” basis, with standard representations and warranties for a receivership transaction;
 - d) to the extent permitted by law, all of the right, title and interest of the Receivership Companies in the Real Properties will be sold free and clear of all pledges, liens, security interests, encumbrances and claims, pursuant to approval and vesting orders to be sought by the Receiver;
 - e) to the extent permitted by law, interested parties will not be required to assume the Homebuyer purchase agreements;
 - f) the Receiver will have the right to reject any and all offers, including the highest and best offers;
 - g) any Mortgagee will have the right to credit bid the debt owing to it in respect of a Real Property at the conclusion of the Sale Process if the offers are not sufficient to repay its mortgages on such Real Property in full;
 - h) if, in the Receiver’s sole discretion, it will assist to maximize recoveries, the Receiver will have the right to: (i) waive strict compliance with the terms of the Sale Process, including the right to amend any of the deadlines in the table above by up to four weeks without an order of the Court; and (ii) modify and adopt such other procedures that will better promote the sale of the Real Properties or increase recoveries for stakeholders;
 - i) any material modifications to, or the termination of, the Sale Process for any or all of the Real Properties shall require Court approval, subject however, to the right to extend bid deadlines as set out in paragraph (h) above; and
 - j) any transaction or transactions entered into by the Receiver shall be subject to Court approval.

5.3 Listing Agreements

1. The listing agreements are presently being drafted and are expected to be finalized by the return of this motion; however, the commission structure for each Real Property is provided in Appendix “F”. The listing agreements are expected to be in the standard form for a receivership transaction. If there is anything unusual with any of the listing agreements, the Receiver will advise the Court on the return of this motion.
2. Each of the realtors will spend considerable time and effort preparing for and marketing each of the Real Properties. If the Stateview Group completes a refinancing of some or all of its mortgages (which the Stateview Group has advised it is working on), each realtor should be entitled to a work fee for its time and effort. Accordingly, each of the listing agreements includes a work fee of \$100,000 (plus HST and actual disbursements), for each Real Property where the mortgages are refinanced and \$150,000 in the event a Real Property is acquired by a mortgagee through a credit bid.⁶ The work fees are significantly less than the commissions to which the brokers would be entitled if they sold the Real Properties.
3. The Receiver is not aware of the status of the Stateview Group’s refinancing efforts. The Receiver believes that the Sale Process should be commenced immediately, which is supported by all Mortgagees.

5.4 Sale Process Recommendation

1. The Receiver recommends that the Court issue an order approving the Sale Process for the following reasons:
 - a) the Sale Process is reasonable and appropriate at this time based on the issues identified above, including: (i) the early development stage of the Projects; (ii) the illiquidity of the Projects; (iii) feedback from Mortgagees; and (iv) the lack of any other viable option, including an unconditional refinancing sufficient to repay in full all mortgagees;
 - b) the Sale Process is a fair, open and transparent process developed with input from the selected realtors, and is intended to canvass the market broadly on an efficient basis to obtain the highest and best price;
 - c) the Sale Process is flexible and provides the Receiver with the timelines, procedures and flexibility that it believes are necessary to maximize value;
 - d) the Sale Process includes procedures commonly used to sell real estate development projects, including by KSV in other court-supervised real property sale processes;

⁶ Each broker is engaged on two sites. If the two sites were both credit bid, the fee to the respective broker’s fee would be \$300,000. One work fee would be paid for all Industrial Properties in the event of a refinancing or credit bid in respect of Taurasi Holdings.

- e) each of the selected realtors is a leading national brokerage, with the experience and expertise to market the Real Properties, including knowledge of the markets in which the Real Properties are located and a marketing plan tailored to each Real Property; and
- f) there will be no delay commencing the Sale Process as each of the realtors is preparing its marketing materials, working on their prospect lists and, with the Receiver, updating data rooms.

6.0 On the Mark

1. As noted above, 38 of 70 home sales on this Project have been completed. The remaining 32 homes were scheduled to close by the end of June 2023.
2. Construction at the On the Mark Project has been halted due to the commencement of the receivership proceedings, which will result in closing delays. As of the commencement date of the receivership, Kingsett advised the Receiver that it was not aware of any significant payables, other than holdbacks, related to this Project, and that the cost to finish the Project was estimated to be approximately \$3 million based on the information that had been provided to Kingsett by the Stateview Group. Since that time, the Receiver has learned that there is approximately \$12 million of payables owing on the Project, including the unremitted HST of approximately \$4 million discussed above. The cost to complete this Project is also expected to be several million dollars more than originally estimated.
3. On May 10, 2023, the Receiver sent a notice to all On the Mark Homebuyers that have not yet closed on their homes, advising that the Receiver is reviewing the status of the On the Mark Project, including the completion of the units and the agreements of purchase and sale, and that it would provide Homebuyers on this Project with further updates in due course.
4. The Receiver has engaged a former president of a major Toronto developer to assist it to consider the feasibility of completing this Project based on its recent findings.
5. The Receiver is hopeful to be able to make a recommendation regarding this Project in the next few weeks. The Receiver will post a Homebuyer notice once a determination has been made.

7.0 Securing Data and Information

1. Since its appointment, the Receiver has been working to secure data and information related to the Receivership Companies. The Receiver believes that securing this data and information promptly is particularly important in this case given that the Stateview Group has already acknowledged certain malfeasance.
2. The Receiver understands that relevant data and information relating to the Receivership Companies resides, at least, on Stateview Group's servers. The Receiver wishes to image these servers immediately.

3. In addition to the servers, the Receiver wishes to image the Taurasis' personal phones in case any data resides on those devices that is not otherwise stored on the Stateview Group's servers. The Taurasis have advised, and will confirm to the Receiver in writing, that they have no other personal devices, including computer, tablets and the like.
4. The Receiver has retained Kroll Consulting Canada Co. ("Kroll") to carry out the imaging of the servers and personal devices.
5. On May 16, 2023, Stateview Group's counsel advised the Receiver that it was agreeable to backing up the Stateview Group's electronic records but that it could not agree to produce such records until a protocol was developed given that the records included information relating to Non-Receivership Companies and there were privilege issues to address.
6. The Receiver subsequently reached an understanding with Stateview Group and the Taurasis for:
 - a) preservation of data and information on the Stateview Group servers and the Taurasis personal cell phones; and
 - b) delivery to the Receiver of electronic books and records (including banking records) for each of the Receivership Companies as well as any other documentation or information relating to the Receivership Companies that the Receiver may request from time to time.

8.0 Receiver's Activities

1. In addition to the activities described above, the Receiver's activities since the May 2nd Receivership Orders have included:
 - a) corresponding extensively with Cassels and/or Paliare regarding these proceedings;
 - b) corresponding extensively with the Mortgagees regarding, among other things, the status of the Real Properties, the proposed realization plan with respect to each of the Real Properties and the Sale Process;
 - c) corresponding with Kingsett regarding the status of construction on the On the Mark and the High Crown Projects and addressing issues related to the trades, liens, costs-to-complete construction, and funding of construction costs;
 - d) corresponding with representatives of the Receivership Companies, including Management, to obtain information concerning the Projects and the business of the Receivership Companies;
 - e) corresponding with the Information Officer to, *inter alia*, obtain information regarding all aspects of the Receivership Companies business and operations, including bank account activity;
 - f) attending periodically at the Receivership Companies' head office;

- g) corresponding with the Receivership Companies' insurance broker to confirm coverage and corresponding with Cassels regarding same;
- h) retaining a contractor to address ad hoc matters at the On the Mark and High Crown Projects, including to assist in repairs and maintenance activities and to perform water testing;
- i) familiarizing itself with each of the Projects, including corresponding with certain of the Receivership Companies' consultants;
- j) reviewing information provided by the Mortgages regarding each of the Real Properties, including appraisals, development applications, environmental reports and other consulting reports;
- k) reviewing liens registered against certain of the Real Properties and dealing with Paliare or Cassels (as applicable) regarding same;
- l) dealing with issues related to copying the Receivership Companies' servers and other electronic records;
- m) preparing and sending to creditors and to the Official Receiver the statutory notices required pursuant to subsection 245(1) and 246(1) of the *Bankruptcy and Insolvency Act*; and
- n) preparing this Report.

9.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1) (h) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
STATEVIEW HOMES (MINU TOWNS) INC.,
STATEVIEW HOMES (NAO TOWNS) INC., STATEVIEW HOMES (ON THE MARK) INC.,
TLSFD TAURASI HOLDINGS CORP., STATEVIEW HOMES (HIGH CROWN ESTATES) INC.,
STATEVIEW HOMES (BEA TOWNS) INC., HIGHVIEW BUILDING CORP INC.,
STATEVIEW HOMES (NAO TOWNS II) INC. AND STATEVIEW HOMES (ELM&CO) INC.
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

Appendix “H”



Cushman & Wakefield ULC, Brokerage
161 Bay Street, Suite 1500
Toronto, ON, M5J 2S1
+1 416 862 0611
www.cushmanwakefield.ca

February 1st, 2024

Bobby Kofman
KSV Restructuring Inc.
220 Bay Street, 13th Floor
Toronto, Ontario, M5J 2W4

Re: Court Reporting Letter – 7810-7846 McCowan Road, Markham, ON (the “Property”)

The following reporting letter summarizes the marketing and sale process of 7810-7846 McCowan Road, Markham, completed by Cushman & Wakefield ULC (“C&W”) as advisor to KSV Restructuring Inc., solely in its capacity as court-appointed receiver and manager of Stateview Homes (NAO II) Inc. (the “Receiver”).

Sale Process

- Cushman & Wakefield (“C&W”) confirms that a comprehensive sale process was conducted, pursuant to the process established in tandem with the Receiver including:
 - Due diligence conducted by C&W in the preparation of marketing materials and the establishment of an online data room (the “Data Room”).
 - Marketing materials included a detailed Brochure, comprehensive Confidential Information Memorandum (“CIM”), Property signage, and advertisements in the Globe and Mail, Insolvency Insider publication, and Novae Res Urbis development publication.
 - Marketing period of six weeks, beginning on Thursday, June 15th, 2023, and concluding on Tuesday, July 25th, 2023, with the acceptance of first round submissions of offers.
 - Second round submissions of offers accepted on Thursday, August 10th, 2023.
 - Additional questions were asked of both [•] and [•]
 - The offer from [•] was selected and the APS was finalized and executed on August 24th, 2023.
 - [•] did not waive their conditions on Oct 13th, 2023, and the Property was available and noted as such on the MLS.
 - All previously interested parties and previous bidders were contacted to solicit updated offers on the Property.
 - Discussions/negotiations were advanced with [•], but terms were not agreed to.
 - A new offer from a previously interested buyer [•] was received on November 2nd, 2023. Negotiations were advanced and the APS was executed on November 29th, 2023.
 - [•] proposed a waiver and amendment, which was further negotiated and finalized on January 18th, 2024, with a final price of [•].
 - Closing is set to occur on the later of 30 days from purchaser’s waiver of conditions or 10 days after court approval.

Confidentiality Agreements

- Throughout the sale process, 44 groups executed confidentiality agreements (“CA’s”) to access the documents contained in C&W’s online data room.
- A list of prospective purchasers and related commentary (the “Buyer Interest Report”) is outlined in Appendix A.

Advertising

- The Property was advertised for sale in the Globe & Mail’s Report on Business section on Thursday, June 22nd, 2023 and Tuesday, June 27th, 2023.
- The Property was advertised for sale in the Novae Res Urbis, Greater Toronto & Hamilton Area publication on Wednesday, June 21st, 2023, and Friday, June 23rd, 2023.
- The Property was advertised for sale in the Insolvency Insider publication newsletter on Monday, June 26th, 2023, and Tuesday, July 4th, 2023.
- Sample marketing advertisements are provided in Appendix A.

E-mail Marketing Campaign

- Immediately prior to the full market launch, C&W reached out to specific targeted purchasers outlined in the original RFP Response Submission, as well as additional groups active in the market.
- During the marketing period, approximately 8,500 investors / developers received the e-mail marketing blast containing the sales brochure and confidentiality agreement.
- The Property was e-mail blasted to the customized target buyer list six times, on a weekly basis on the following dates:
 - June 15th, 2023, June 20th, 2023, June 27th, 2023, July 4th, 2023, July 11th, 2023, and July 18th, 2023.
- These were followed by an e-mail blast making interested parties aware of the offering date.
- In addition, the e-mail marketing blast was also sent out to approximately 2,000 real estate agents one time on June 27th, 2023.

Online Property Listing

- The property was listed for sale on TREB’s MLS system was Thursday, June 15th, 2023. This provided the property with significant market exposure to both potential purchasers and real estate agents alike.
- The listing was updated to reflect the ultimate purchaser’s conditional sale until January 10th, 2024, and will be updated to reflect the closing date once finalized.
- The MLS listing is included in Appendix A.

Signage Installation

- A “For Sale” sign was installed on Monday, June 19th, 2023, with frontage onto McCowan Road.
- A sample of the signage installed is included in Appendix A.

Template Agreement of Purchase and Sale

- The Receiver provided C&W with a template Agreement of Purchase and Sale for potential purchasers to review and submit with their offers (the “APS”).
- This document was included in C&W’s online data room along with offering instructions and deposit information.

Due Diligence & Property Tours

- During the sale process, interested parties conducted various degrees of due diligence based on the material provided in the Data Room
- Prospective purchasers had discussions with their own consultants and with C&W to inform their underwriting.
- Throughout the sale process, most interested parties did not request site tours and subsequently did not view the Property in person due to C&W's aerial photographs in the marketing material which clearly showed the property's physical attributes and reflected its most recent condition. Interested parties could also see the Property by driving/walking along McCowan Road.
- A number of prospective purchasers who had signed CAs, did visit the site either passing by in a vehicle or from a distance.

Offers Received

- In the first round of offers received on Tuesday, July 25th, 2023, C&W received seven offers from seven different groups actively underwriting the property as summarized in Appendix B ranging in values from [•] to [•] and containing a variety of condition (the "Round One Offers"). The Round One Offers came in a variety of forms, being APS and LOI, and contained various mark-ups.
- C&W reviewed the Round One Offers with the Receiver. The Receiver, in consultation with the Lenders, instructed C&W to go back to all prospective purchasers who submitted Round One Offers to allow such parties to improve their respective offers by Thursday, August 10th, 2023.
- In the second round of offers received on Thursday, August 10th, 2023, C&W received seven offers from seven groups (the "Round Two Offers").
- Three groups submitted an offer for consideration in the Round Two Offer process ([•], [•] and [•]) but did not submit an offer in the Round One Offer process. These groups had expressed interest but did not originally submit an offer due to various reasons.
- The remaining four bidders in Round Two did participate in the Round One Offer process.
- [•], [•] and [•] removed themselves from the Round Two Offer process due to their inability to improve their proposed price and terms.
- A summary of the Round Two Offers is included in Appendix C.
- The results of the Second Round Offer process and the events that followed are described herein on page 1 in the Sale Process section.

Appendix A

Sample Marketing Material

Novae Res Urbis

FOR SALE
Residential Development Opportunity
7810-7846 MCCOWAN ROAD, MARKHAM

- 5.46 acre lot with 5.46 acres
- Potential for 170,262 sq ft of residential development
- Official Plan & Zoning By-Law amendment application filed with the City of Markham
- Located just south of Highway 407
- 100' Private Street and 100' Lot Set Back

CLICK FOR BROCHURE

CONTACT:

DAN ROGERS* d.rogers@cushwake.com 416 862 1800 dan.rogers@novareurbis.com	JEFF LEVER* j.lever@cushwake.com 416 862 1800 jeff.lever@novareurbis.com	RENE SERIN* r.serin@cushwake.com 416 862 1800 renee.serin@novareurbis.com	REILLY HAYHURST* r.hayhurst@cushwake.com 416 862 1800 reilly.hayhurst@novareurbis.com
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Globe & Mail

FOR SALE
Residential Development Opportunity
7810-7846 MCCOWAN RD | MARKHAM

- ▶ Total land area of 5.46 acres
- ▶ Potential for 170,262 sq ft of OPA and 84 townhouse units
- ▶ Official Plan & Zoning By-Law amendment applications filed with the City of Markham
- ▶ Located just south of Highway 407 & Centennial GO Station

Dan Rogers** | **Jeff Lever***
d.rogers@cushwake.com | j.lever@cushwake.com
Rene Serin* | **Reilly Hayhurst***
r.serin@cushwake.com | reilly.hayhurst@cushwake.com

CUSHMAN & WAKEFIELD
416 862 1800

*Broker **Sales Representative | Cushman & Wakefield ULC, Brokerage

Insolvency Insider

Text: KSV Restructuring Inc. solely in its capacity as court appointed receiver and manager of StateView Homes (NAO TOWNS II) INC., has engaged Cushman & Wakefield ULC to solicit offers for the sale of the residential development parcels located at 7810-7846 McCowan Road, Markham. The Property includes 5.46 acres of land and is located on the west side of McCowan Road, just south of Highway 407. An Official Plan and Zoning By-Law amendment application has been advanced for the Site, with the proposed development including 40 back-to-back and 44 traditional townhouses, having a total gross floor area of 170,202 square feet.

Signage

CUSHMAN & WAKEFIELD

FOR SALE
7810 - 7846 McCowan Road,
Markham

DAN ROGERS** | JEFF LEVER* | RENE SERIN*
REILLY HAYHURST* | MIKE MURRAY*

416 862 1800

MLS Listing

Listing N6166396 Preview



7810-* McCowan Road
Markham, ON L3P 3J3
Commercial - Land
For Sale - \$1.00 For Sale - New

CUSHMAN & WAKEFIELD (416-862-1800)
DANIEL ALEXANDER ROGERS, Broker, Broker
(416-359-2352)
JEFF LEVER, Salesperson, Salesperson
(416-359-2492)

Location

AREA	York	LOT DEPTH	435.26
MUNICIPALITY	Markham	LOT/BLDG./UNIT CODE	Lot
COMMUNITY	Miliken Mills East	LOT SIZE CODE	Feet
LEGAL DESC.	See comments below	ZONING	RD - Residential Development
LOT FRONT	534.42	DIR./MAIN CROSS STREETS	14th Avenue & McCowan Road

Amounts/Dates

TAXES/YEAR/TYPE	20016 / 2023 / Annual	POSSESSION REMARKS	upon closing
CONTRACT COMMENCEMENT	June 15, 2023	HOLDOVER DAYS	180
EXPIRY DATE	December 2, 2023	SELLER NAME	KSV Restructuring Inc.

Details

CATEGORY	Designated	WATER	Municipal
USE	Residential	OUTSIDE STORAGE	No
TOTAL AREA/CODE	5.46 Acres	RAIL	No
UTILITIES	Available	SEWERS	Sanitary+Storm Available

Comments

REMARKS FOR CLIENTS
*Listing is for 7810, 7822, 7834 & 7846 McCowan Road. Prime 84-townhouse unit res. development land for sale comprised of 40 b2b & 44 traditional town, with total GFA of over 170k SF. Both CPA & ZBA applications & significant property due diligence have been advanced for the site, reducing the development timeline substantially. 7810: Role#193603021378800; LD: PT LT 6, CON 6, AS IN R640291; MARKHAM, 7822: Role#193603021379000; LD: PT LT 6, CON 6, AS IN MA69140; MARKHAM, 7834: Role#193603021379200; LD: PT LT 6, CON 6, PART 1, 2, 6 SR17687, 7846: Role#193603021379400; LD: PT LT 6, CON 6, AS IN R491163; T/W MA54373. Buyer to verify all information.

EXTRAS
PINs: 029620270, 029620271, 029620272 & 029620273. Property being sold by Court Appointed Receiver on "as-is where-is" basis.

REMARKS FOR BROKERAGES
3rd Listing Agent is Rene Serrin (rene.serrin@cushwake.com). Please complete a confidentiality agreement for access to online data room. Commission fees will only be paid upon both completion of transaction and collection from Seller.

Financial Information

FINANCIAL STATEMENT No

Other

LISTING BROKERAGE	CUSHMAN & WAKEFIELD	DISTRIBUTE TO INTERNET	Yes
SALESPERSON 1	DANIEL ALEXANDER ROGERS, Broker	DISPLAY ADDRESS ON INTERNET	Yes
SALESPERSON 1 PHONE	416-359-2352	DISTRIBUTE TO CDF/IDX	Yes
SALESPERSON 2	JEFF LEVER, Salesperson	PERMISSION TO CONTACT BROKER TO ADVERTISE	No
SALESPERSON 2 PHONE	416-359-2492	OCCUPANCY	Vacant
CMSN. TO CO-OP. BROKERAGE	0.3%	CONTACT AFTER EXPIRED	No
SELLER PROP. INFO STATEMENT	No		

Buyer Interest Report



Submitted an Offer
Passed on Opportunity

Buyer Interest Report			
7810-7846 McCowan Road, Markham October 20th, 2023			
#	Contact	Company	Comments
1	●	●	Submitted an Offer in Round 2
2	●	●	Passed on the opportunity
3	●	●	Passed on the opportunity
4	●	●	Passed on the opportunity
5	●	●	Passed on the opportunity
6	●	●	Passed on the opportunity
7	●	●	Passed on the opportunity
8	●	●	Passed on the opportunity
9	●	●	Passed on the opportunity
10	●	●	Submitted an Offer in Round 2
11	●	●	Passed on the opportunity
12	●	●	Submitted an Offer in Round 1 and Round 2
13	●	●	Passed on the opportunity
14	●	●	Submitted an Offer in Round 1
15	●	●	Passed on the opportunity
16	●	●	Passed on the opportunity
17	●	●	Submitted an Offer in the late-stages of the process
18	●	●	Passed on the opportunity
19	●	●	Passed on the opportunity
20	●	●	Passed on the opportunity
21	●	●	Passed on the opportunity
22	●	●	Passed on the opportunity
23	●	●	Passed on the opportunity
24	●	●	Passed on the opportunity
25	●	●	Passed on the opportunity
26	●	●	Passed on the opportunity
27	●	●	Submitted an Offer in Round 1
28	●	●	Passed on the opportunity
29	●	●	Passed on the opportunity
30	●	●	Submitted an Offer in Round 1 and Round 2
31	●	●	Passed on the opportunity
32	●	●	Passed on the opportunity
33	●	●	Passed on the opportunity
34	●	●	Passed on the opportunity
35	●	●	Passed on the opportunity
36	●	●	Submitted an Offer in Round 1 and Round 2
37	●	●	Passed on the opportunity
38	●	●	Passed on the opportunity
39	●	●	Passed on the opportunity
40	●	●	Passed on the opportunity
41	●	●	Passed on the opportunity
42	●	●	Passed on the opportunity
43	●	●	Passed on the opportunity
44	●	●	Passed on the opportunity

Appendix B

Round One Offer Summaries

Round One
 Offer Summary - 7810-7846 McCowan Road,
 Markham
 Date: July 16, 2023

	Offer 1	Offer 2	Offer 3	Offer 4
Company/Trade Name	[*]	[*]	[*]	[*]
Purchaser	[*]	[*]	[*]	[*]
Cooperating Broker	-	-	-	-
Point of Contact	[*]	[*]	[*]	[*]
Oral	[*]	[*]	[*]	[*]
Offer Format	APS	AP	APS	LOI
Documents Provided	APS, DL	APS, SL, Cover Letter	APS, DL, Corporate Profile	LOI
Date of Offer	25-Jul-23	25-Jul-23	25-Jul-23	25-Jul-23
Purchase Price	[*]	[*]	[*]	[*]
1st Deposit	[*]	[*]	[*]	[*]
2nd Deposit	[*]	[*]	[*]	[*]
Proof of Deposit	N/A - Purchaser will pay deposit upon receipt of DD Conditions	N/A - Purchaser will pay deposit within 3 Business Days after the Acceptance Date	N/A - Purchaser will pay deposit within 2 Business Days after initiation of the APS	N/A
Intended Use	Residential	-	Residential	Residential
Due Diligence Period	60 days	60 days	60 days - with housekeeper 30 day extension	70 days
Reasons for Due Diligence	-	-	-	-
Closing Date	Closing 20 days from writing order or next day following appeals/retions	Closing 60 days from writing order or 30 days following appeals/retions	60 days from writing order or 25 Business Days following appeals/retions	Closing of 1st DL, 2024; - 30 days following final writing order or - 60 days following the termination of all existing APS enclosed into by Seller's Broker
Unresolvable Date	-	-	-	-
Make Changes re APS	- Credit (or) assignment and assumed to cost [*] 3, remaining portion of the second mortgage loan - Purchaser will pay deposit upon receipt of DD Conditions - Remainder of the cash purchase price will be paid in closing - Conditional upon the purchaser being selected by the Receiver for MLI, MLI II, BIA, EIA & Coated MLI Purchase Price Breakdown: [*] cash in the amount of the Priority Payables (the "Priority Payables Cash"); [*] cash in the amount required to satisfy the First Mortgage Note Cash as (the "First Mortgage Cash") together with the Priority Payables Cash, the "Cash Purchase Price"; and [*] a cash loan in the amount of the assignment and assumption up to the amount of [*] 1, representing a portion of the amount of the Second Mortgage Loan. Amount advanced by the Purchaser to the Seller pursuant to the Second Mortgage Loan (the "Credit Bid Amount")	- Deposit will be paid within 3 Business Days after the Acceptance Date - Within 30 Business Days after the Purchaser's conditions, the Purchaser shall pay a 2nd Deposit that is the difference between the 1st Deposit and 10% of the Purchase Price	- 1st deposit payable upon initiation of the APS - A further sum such that the amount paid on closing, including the Deposit paid, equals 10% of the Purchase Price will be paid upon completion of the transaction - The remaining balance (90%) of the purchase price, will be in a LTR for a term of 18 months	- Purchaser is intended to LOI - APS/condition agreed upon with a 10 Business Days after initiation of the LOI - Closing date subject to later of dates highlighted above
Material Comments		- Added in Article 5 - Access - Confirmation of all info related to the reports - Documents including Rights & Deed and, Permits, Consents, Work orders, Unit Purchase Agreements, Resolving order, Sale Process order and/or all utility bills - Added in Section 8.1 & 8.6 - 8.5 Purchaser's DD Condition - 8.6 Purchaser's Reports		

Round One
 Offer Summary - 7810-7846 McCowan Road,
 Markham
 Date: July 25, 2023

	Offer 1	Offer 2	Offer 3
Company/Trade Name	[*]	[*]	[*]
Purchaser	[*]	[*]	[*]
Cooperating Broker	-	-	-
Point of Contact	[*]	[*]	[*]
Email	[*]	[*]	[*]
Offer Format	APS	LOI	APS
Documents Provided	APS, BL	LOI	APS, BL
Date of Offer	25-Jul-23	25-Jul-23	25-Jul-23
Purchase Price	[*]	[*]	[*]
1st Deposit	[*]	[*]	[*]
2nd Deposit	[*]	[*]	[*]
Proof of Deposit	N/A - Purchaser will pay deposit upon execution of the APS	N/A - Purchaser will pay deposit upon execution of the APS	N/A - Purchaser will pay deposit upon execution of the APS
Intended Use	Residential	Residential	-
Due Diligence Period	90 days	90 days	30 days
Reasons for Due Diligence	-	-	-
Closing Date	Later of: - 30 days from vesting order; or - Next day following appeals/objections; or - 30 days following the Purchaser's waiver of the "Investigation Period"	30 days after the Purchaser waives DD Condition	100 days following vesting order; or 90 days following appeals/objections
Irrevocable Date	-	-	-
Main Changes to APS	- Inserted Purchaser Conditions in Section 4 - Added in another timeline for the Closing Date	- Purchaser submitted an LOI	
General Comments	- Deposit structure shows 1st Deposit of [*], 2nd Deposit as [*] and states that the Purchaser will pay the sum of [*] in cash upon Closing. That equals [*] Purchase price is [*].		

Appendix C

Round Two Offer Summaries

Round Two
Offer Summary - 7810-7846 McCowan Road,
Markham
Date: August 30, 2023

	Offer 1	Offer 2	Offer 3	Offer 4	Offer 5
Company/Trade Name	[*]	[*]	[*]	[*]	[*]
Purchaser	[*]	[*]	[*]	[*]	[*]
Cooperating Broker	-	-	-	-	-
Point of Contact	[*]	[*]	[*]	[*]	[*]
Email	[*]	[*]	[*]	[*]	[*]
Other Format	AM	CM	AM	AM	AM
Document Provider	APS	CM	APS, CM, Coor. Letter	APS, B., Corporate Profile	APS, B.
Date of Offer	30 Aug 23	30 Aug 23	30 Aug 23	30 Aug 23	30 Aug 23
Purchase Price	[*]	[*]	[*]	[*]	[*]
AM Request	[*]	[*]	[*]	[*]	[*]
2nd Deposit	[*]	[*]	[*]	[*]	[*]
Form of Deposit	1st deposit to be paid tomorrow, 2nd deposit paid within 30 business days after date of second deposit.	N/A - Purchaser will pay 1st deposit upon acceptance of offer and 2nd deposit upon success of conditions	N/A - Purchaser will pay deposit within 1 business day after the Acceptance Date	N/A - Purchaser will pay deposit within 1 Business Day after the execution of the AM	N/A - Purchaser will pay deposit upon execution of the OS
Intended Use	Residential	Residential	Residential	Residential	Residential
Due Diligence Period	10 days	30 Business days	30 days	30 days - with two separate 30 day extensions	30 days
Reason for Due Diligence	Gene of DD Guide and 2 interested Escrowed. Subjection with Coor sharing Agreement. Doing that was on the floor of - 10 days from making order, or	Verbal DD	Gene of DD	Gene of DD	Gene of DD
Closing Date	10th business day following receipt of conditions or 10 days following the Purchaser's receipt of the Purchaser's Co-Op for period	30 Business days after execution of all conditions	30 days from closing order - 30 days following deposit/receipt of OS Business days after the Conditional Date	30 days from closing order or 30 Business Days following deposit/receipt	30 days following receipt/receipt of OS or 30 days following the Purchaser's receipt of the "Investigation Period"
Inescapable Date	-	-	-	-	-
Main Changes to APS	- Purchaser inserted clause 2.6 to the APS's Conditions.	- Purchaser inserted 2.07 Purchaser inserted a profit sharing arrangement which will be subject to APS [*], in discussion with the Purchaser, the profit sharing arrangement would likely be based on a target RO return, i.e. "B" profit/owner "C" RO would be split between the two upon re-opening terms.	- Deposit will be paid within 3 Business Days - Within 3 Business Days after the Purchaser's conditions, the Purchaser will give 2nd deposit that is the difference between the 1st deposit and 50% of the Purchase Price. Purchaser inserted clause in their APS for the profit split and in return to have received into a holding APS for 1111, 1112, and 1113. 1st deposit, Markham 070 to 0000	100 has been removed from the original offer, 1st deposit upon receipt of the APS and 2nd deposit within 2 Business Days following the execution of the OS Condition.	Inserted Purchase Condition in Section 4 added in another clause for the Closing Date
Special Comments	- The deposit stated that if the deposit paid to APS, however upon closing with the Purchaser, this is delayed due to a contractual need for the AM but will be paid shortly.	- Purchaser did not accept offer in the event of closing AM's not being - Seller's Business days of acceptance of the OS, the Purchaser shall provide a formal APS	- Added in Section 4 - terms As a condition to all info related to the property - Deliverables including Rights & Documents, Permits, Consents, Work orders, Lien Release Agreements, Escrowed to order, Sale Proceeds order and OS & 1113 OS - Added in Section 6.0 to be - 5.5 Pay from VED to 1113 - 8.3 Pay from 1113 to 1113 - Purchase price increased by [*] from final 1113 release.	Purchase price increased by [*] from Round 1 release.	- The other 1113 OS was changed from 10: 1113 OS - Rephrase clause 1.07 for deposit of [*], 2nd deposit of [*] and attach that the purchase will pay the cost of [*] in cash upon closing. This costs [*] Purchase price is [*]

Round Two
Offer Summary - 2810-2846 McCowan Road,
Markham
 Date: April 30, 2025

	Offer 6	Offer 7
Company/Trade Name	[*]	[*]
Purchase	[*]	[*]
Cooperating Broker	-	-
Point of Contact	[*]	[*]
Email	[*]	[*]
Offer Format	PDF	PDF
Documents Included	APL, B1	APL, B1, Cover Letter
Desk of Offer	21-Aug-25	21-Aug-25
Purchase Price	[*]	[*]
1st Deposit	[*]	[*]
2nd Deposit	[*]	[*]
Proof of Deposit	N/A - Purchase will pay deposit upon closing of CO Conditions	Y/N
Intended Use	Residential	Residential
Due Diligence Period	30 days	30 days
Reasons for due diligence	-	- Training - Review of APN documents - Further review of data room info
Closing Date	Closing 30 days from writing order or next day following approval/rejection	Closing shall occur on the later of: - 30 days from writing order, or - Next business day following approval/rejection has concluded
Irrevocable Date	-	-
Main Changes to APN	- Credit bid assignment and assignment to the [*] remaining portion of the second mortgage loan - Purchaser will pay deposit within 30 days of Receiver's execution of Agreement - Remainder of the cash purchase price will be paid on closing. - Purchaser increased deposit to [*]. - Purchaser made various changes to the template schedule.	- 40 day conditional period for the Buyer to arrange financing.
Special Comments	Purchase Price Breakdown: (a) cash in the amount of the Priority Payable Cash; "Priority Payable Cash"; (b) cash in the amount required to satisfy the first Mortgage Indenture (the "First Mortgage Cash") together with the Priority Payable Cash, the "Cash Purchase Price"; and (c) a credit bid and/or an assignment and assumption up to the amount of [*], representing a portion of the amount of the second mortgage loan (Amount advanced by the Purchaser to the Debtor pursuant to the second mortgage loan (the "Credit Bid Amount").	Will not be providing any supporting documentation or any communications from the Purchaser's agent.

Appendix “I”

AGREEMENT OF PURCHASE AND SALE

BETWEEN

KSV RESTRUCTURING INC.,
solely in its capacity as the Court-appointed receiver and manager
of Stateview Homes (NAO Towns II) Inc. and not in its personal
capacity or in any other capacity

- and -

1000707996 ONTARIO INC.

Dated: November 29, 2023

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AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this ___ day of November 2023.

BETWEEN:**KSV RESTRUCTURING INC.,**

solely in its capacity as the Court-appointed receiver and manager of Stateview Homes (NAO Towns II) Inc., and not in its personal capacity or in any other capacity

(in such capacity, the "**Receiver**")

- and -

1000707996 ONTARIO INC.

(the "**Purchaser**")

WHEREAS pursuant to an order of The Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on May 2, 2023 (the "**Receivership Order**"), KSV Restructuring Inc. ("**KSV**") was appointed as the Receiver, without security, of Stateview Homes (NAO Towns II) Inc. (the "**Debtor**") including the real property municipally known as 7810, 7822, 7834 and 7846 McCowan Road, Markham, Ontario and having the legal description set out in Schedule "A" (the "**Real Property**");

AND WHEREAS pursuant to an order of The Honourable Justice Penny of the Court made on June 5, 2023 (the "**Sale Process Order**"), the Court approved the Sale Process (as defined in the Sale Process Order);

AND WHEREAS the Purchaser wishes to purchase and the Receiver wishes to sell the Purchased Assets (as defined herein) upon the terms and subject to the conditions set out herein;

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements contained in this Agreement (as defined herein), and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the Parties (as defined herein), the Parties agree as follows:

**ARTICLE 1
DEFINED TERMS****1.1 Definitions.**

In this Agreement:

"**Accounts Payable**" means all amounts relating to the Business owing to any Person in connection with the purchase of goods or services in the ordinary course of business;

“**Agreement**” means this agreement of purchase and sale, including all schedules and all amendments or restatements, as permitted, and references to “**article**”, “**section**” or “**schedule**” mean the specified article, section of, or schedule to this Agreement and the expressions “**hereof**”, “**herein**”, “**hereto**”, “**hereunder**”, “**hereby**” and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

“**Applicable Law**” means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Authority;

“**Approval and Vesting Order**” means the approval and vesting order issued by the Court approving this Agreement and the transactions contemplated by this Agreement and conveying to the Purchaser the Purchased Assets free and clear of all Encumbrances other than the Permitted Encumbrances, and which order shall be in a form substantively similar to the draft order attached as **Schedule “B”** hereto;

“**Assignable Assets**” has the meaning given in section 3.1(3) herein;

“**Assumed Contracts**” means those Contracts that the Purchaser has elected to assume pursuant to Section 6.6 herein;

“**Business**” means the business of the Debtor;

“**Business Day**” means a day on which banks are open for business in the City of Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;

“**Claims**” means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including solicitor and client costs and disbursements, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing, related to the Purchased Assets or the Debtor, and “**Claim**” means any one of them;

“**Closing**” means the successful completion of the Transaction;

“**Closing Date**” means the date that is the later of:

- (i) 10 days following the date that the Approval and Vesting Order is issued by the Court;
- (ii) 10 days following the date on which any appeals or motions to set aside or vary the Approval and Vesting Order have been finally determined;
- (iii) 30 days following the waiver of the Due Diligence Condition, if the Tarion Condition has been waived by December 31, 2023;

- (iv) if the Tarion Condition has not been waived by December 31, 2023, then 45 days following the waiver of the Due Diligence Condition; and
- (v) if the decision on the Tarion Motion is not released prior to the later of (i) to (iv) above, and the Receiver does not exercise its right to terminate pursuant to the Tarion Condition following the release of such decision, then 10 days after the receipt of the Court's decision on the Tarion Motion;

"Closing Time" means 2:00 p.m. (Toronto time) on the Closing Date or such other time as agreed in writing by the Parties;

"Consents and Approvals" means the consents and approvals of all relevant third parties, if any;

"Contracts" means all of the contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements and engagements to which the Debtor is a party;

"Court" has the meaning set out in the recitals hereof;

"Deposit" has the meaning given in section 4.2 herein;

"Encumbrances" means all liens, charges, security interests, pledges, leases, offers to lease, title retention agreements, mortgages, restrictions on use, development or similar agreements, easements, rights-of-way, title defects, options or adverse claims or encumbrances of any kind or character whatsoever affecting the Purchased Assets;

"ETA" means the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

"Excluded Assets" means all assets, undertakings and properties other than the Purchased Assets, which Excluded Assets includes the following:

- (a) the Debtor's cash or cash equivalents;
- (b) the Debtor's accounts receivable;
- (c) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Debtor or the Purchased Assets;
- (d) the benefit of any prepaid expenses or deposits with any Person (including, without limitation, the benefit of any prepaid rent), public utility or Governmental Authority; and
- (e) the benefit of any refundable Taxes payable or paid by the Debtor or paid by the Receiver in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim

or right of the Debtor or the Receiver to any refund, rebate, or credit of Taxes for the period prior to the Closing Date;

“**Excluded Liabilities**” has the meaning given in section 3.3 herein;

“**Governmental Authority**” means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, republic, territory, state or other geographic or political subdivision thereof, including, without limitation, any municipality in which the Real Property is located; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, and “**Governmental Authority**” means any one of them;

“**HST**” means harmonized sales tax imposed under Part IX of the ETA;

“**Interim Period**” means the period from and including the date that this Agreement is executed by the Parties to and including the Closing Date;

“**ITA**” means the *Income Tax Act*, R.S.C. 1985, c.1, as amended;

“**KSV**” has the meaning set out in the recitals hereof;

“**Mortgagees**” means Atrium Mortgage Investment Corporation and Dorr Capital Corporation.

“**Notice**” has the meaning given in section 14.3 herein;

“**Parties**” means the Receiver and the Purchaser;

“**Permits**” means all the authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required, if any, by any Governmental Authority in respect of the Purchased Assets;

“**Permitted Encumbrances**” means all those Encumbrances described in **Schedule “C”** hereto;

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;

“**Property**” has the meaning set out in the Receivership Order;

“**Purchase Price**” has the meaning set out in section 4.1 herein;

“**Purchased Assets**” means all the right, title and interest, if any, of the Debtor in and to the following:

- (a) the Real Property;

- (b) the Assumed Contracts; and
- (c) the Permits, the Re-Zoning Application and Consents and Approvals, but only to the extent transferable to the Purchaser or the Purchaser's permitted assignees, including, for certainty, any fees and/or deposits paid in connection with the Re-Zoning Application;

"Purchaser" means 1000707996 Ontario Inc., a corporation duly formed and validly subsisting under the laws of Province of Ontario;

"Re-Zoning Application" means the application of the Debtor to re-zone the Real Property filed in the City of Markham;

"Real Property" has the meaning set out in the recitals hereof;

"Receiver" has the meaning set out in the recitals hereof;

"Receivership Order" has the meaning set out in the recitals hereof;

"Tarion Motion" means the motion brought by Tarion Warranty Corporation which returned before Justice Steele on November 2, 2023 in respect of the proceeding bearing court file number CV-23-00698395-00CL and other related proceedings.

"Taxes" means all taxes, HST, land transfer taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, excise, real property and personal property taxes, and any related interest, fines and penalties, imposed by any Governmental Authority, and whether disputed or not;

"Third Party" has the meaning given in section 3.1(3) herein; and

"Transaction" means the transaction of purchase and sale contemplated by this Agreement.

ARTICLE 2 SCHEDULES

2.1 Schedules.

The following schedules are incorporated in and form part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule A	Real Property
Schedule B	Approval and Vesting Order
Schedule C	Permitted Encumbrances

ARTICLE 3 AGREEMENT TO PURCHASE

3.1 Purchase and Sale of Purchased Assets.

- (1) Relying on the representations and warranties herein, the Receiver hereby agrees to sell, assign, convey and transfer to the Purchaser, and the Purchaser hereby agrees to purchase, the Purchased Assets, free and clear of all Encumbrances other than the Permitted Encumbrances.
- (2) Subject to the Closing, the Receiver hereby remises, releases and forever discharges to, and in favour of, the Purchaser, all of its rights, claims and demands whatsoever in the Purchased Assets.
- (3) This Agreement or any document delivered in connection with this Agreement shall not constitute an assignment of any rights, benefits or remedies under any Permits or Consents and Approvals (collectively, the "**Assignable Assets**") that form part of the Purchased Assets and which are not assignable by the Receiver to the Purchaser without the required consent of the other party or parties thereto or a Governmental Authority (collectively, the "**Third Party**"). To the extent any such consent is required and not obtained by the Receiver prior to the Closing Date, then, to the extent permitted by Applicable Law:
 - (a) the Receiver will, at the request, direction and sole cost of the Purchaser, acting reasonably, assist the Purchaser, in a timely manner and on a commercially reasonable best-efforts basis, in applying for and obtaining all consents or approvals required under the Assignable Assets in a form satisfactory to the Receiver and the Purchaser, acting reasonably, and take such actions and do such things as may be reasonably and lawfully designed to attempt to provide the benefits of the Assignable Assets to the Purchaser, including temporarily holding those Assignable Assets in trust for the benefit of the Purchaser or acting as agent for the Purchaser pending such assignment; and
 - (b) in the event that the Receiver receives funds with respect to those Assignable Assets, the Receiver will promptly pay over to the Purchaser all such funds collected by the Receiver, net of any outstanding costs incurred pursuant to subsection (a) above.

3.2 Excluded Assets.

Notwithstanding anything else in this Agreement, the Purchased Assets shall not include the Excluded Assets.

3.3 Excluded Liabilities.

With the sole exception of the Permitted Encumbrances, the Purchaser is not assuming, and shall not be deemed to have assumed, any liabilities, obligations or commitments of the Debtor, the Receiver or any other Person, whether known or unknown, fixed or contingent or

otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Real Property or the Debtor's ownership or interest therein, whether pursuant to this Agreement or as a result of the Transaction (collectively, the "**Excluded Liabilities**"). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Debtor prior to the Closing Date;
- (b) except as otherwise agreed in this Agreement, all Taxes relating to any matters or assets other than the Purchased Assets;
- (c) any liability, obligation or commitment associated with the Accounts Payable or any employees of the Debtor for the period prior to Closing;
- (d) except as otherwise agreed in this Agreement, any liability, obligation or commitment resulting from an Encumbrance that is not a Permitted Encumbrance;
- (e) any liability, obligation or commitment associated with any of the Excluded Assets; and
- (f) except as otherwise agreed in this Agreement, any liability, obligation or commitment in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

ARTICLE 4

PURCHASE PRICE AND SATISFACTION OF PURCHASE PRICE

4.1 Purchase Price.

The purchase price for the Purchased Assets shall be the aggregate of [REDACTED] (the "**Purchase Price**").

4.2 Deposit.

- (1) The Purchaser shall pay the Receiver a deposit of [REDACTED] within two (2) Business Days of the date of acceptance of this Agreement, which Deposit shall be held in accordance with the provisions of this Agreement pending completion or other termination of this Agreement.
- (2) The Purchaser shall pay the Receiver the amount of [REDACTED] as a further deposit (together with the amount in paragraph 4.2(1), the "**Deposit**") within two (2) Business Days after the Due Diligence Condition has been waived, to be held in accordance with the provisions of this Agreement pending completion or other termination of this Agreement.

- (3) The Parties agree that the Receiver shall cause the Deposit to be placed in a non-interest bearing account and on completion of the Transaction shall be credited to the Purchaser on the Closing Date.

4.3 Satisfaction of Purchase Price.

The Purchaser shall indefeasibly pay and satisfy the Purchase Price as follows:

- (a) payment of the Deposit as contemplated in section 4.2; and
- (b) on Closing, the remainder of the Purchase Price, being the net amount owing after deducting the Deposit and subject to the adjustments contemplated in section 4.6.

4.4 Purchaser's Financing

The Purchaser acknowledges that it has entered into a commitment letter with Canadian Mortgage Servicing Corporation ("CMSC") in the form attached as Appendix "I" to borrow [REDACTED] from CMSC to finance the purchase of the Property.

4.5 Allocation of Purchase Price.

The Parties, acting reasonably and in good faith, covenant to use best efforts to agree to allocate the Purchase Price amongst the Purchased Assets in a mutually agreeable manner on or prior to the Closing Time, provided that failure of the Parties to agree upon an allocation shall not result in the termination of this Agreement but rather shall result in the nullity of the application of this section of the Agreement such that each Party shall be free to make its own reasonable allocation.

4.6 Adjustment of Purchase Price.

- (1) The Purchase Price shall be adjusted as of the Closing Time in a manner and amount to be agreed upon by the Parties, acting reasonably, for any property Taxes (including interest thereon), utilities and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets in the context of a receivership sale. The Receiver shall prepare a statement of adjustments and deliver same with all supporting documentation to the Purchaser for its approval by no later than three Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined by two Business Days prior to the Closing Date, then, and only then: (i) an estimate shall be agreed upon by the Parties as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably; and (ii) the Parties shall enter into an agreement on or prior to the Closing Date to readjust the adjustments within 60 days after the Closing Date, which readjustment shall serve as a final determination.
- (2) Other than as provided for in this section 4.6, there shall be no adjustments to the Purchase Price.

4.7 Purchaser's Condition

The Agreement arising from acceptance of this offer is conditional until January 10, 2024 (the "**Due Diligence Period**"), upon the Purchaser being satisfied, in its sole and unfettered discretion, with (i) its inspections and review of the Real Property and the Purchased Assets; (ii) the Purchaser having received the approval of its Board of Directors for this Agreement and the transactions contemplated by this Agreement; (iii) the development potential and the economic feasibility and/or viability of the Purchaser's intended use and development or redevelopment of the Real Property; (iv) the York Property and the York Region APS (as defined in Section 4.8 herein); and (v) that the closing date of the York Region APS is extended as set out below (the "**Due Diligence Condition**").

In the event notice in writing from the Purchaser or its solicitors has not been received by the Receiver prior to the expiry of the Due Diligence Period that the Due Diligence Condition has been waived or satisfied or, in the event notice in writing has been received by the Receiver at any time prior to the expiry of the Due Diligence Period that the Due Diligence Condition has not been satisfied, then this Agreement shall be at an end and the Deposit shall forthwith be repaid without deduction to the Purchaser and this Agreement of Purchase and Sale shall be null and void and the parties hereto shall be relieved of any obligation or liability hereunder.

4.8 Vendor's Condition

The Agreement arising from acceptance of this offer is conditional until Closing upon the Receiver being satisfied, in its sole and unfettered discretion, that the Court's decision on the Tarion Motion does not contain a result which will likely adversely impact the distributions to the Mortgagees (the "**Tarion Condition**"). The Receiver shall have three Business Days following the release of the decision on the Tarion Motion (provided such decision is released prior to the Closing Date) to exercise the Tarion Condition by delivering notice to the Purchaser or its solicitor, failing which the Tarion Condition shall be deemed to have been waived.

In the event that the Receiver exercises its right to terminate the Agreement pursuant to the Tarion Condition, then this Agreement shall be at an end and the Deposit shall forthwith be repaid without deduction to the Purchaser and this Agreement of Purchase and Sale shall be null and void and the parties hereto shall be relieved of any obligation or liability hereunder.

4.9 Assignment of York Region APS

The Purchaser agrees that upon waiving the Due Diligence Condition, it shall assume, and take all such steps as are necessary to take an assignment from the Receiver of, the Receiver's rights and obligations (and the Receiver shall be forever relieved of such obligations) in connection with an Agreement of Purchase and Sale between the Debtor and The Regional Municipality of York (the "**Region**") dated December 14, 2022, as amended on March 13, 2023 and May 31, 2023 (the "**York Region APS**"), whereby the Debtor agreed to acquire the following property from the Region (the "**York Property**") for payment of four hundred and forty five thousand dollars (\$445,000) (of which York Region has advised the Receiver that a deposit of \$50,000 has been paid, which deposit shall be for the Purchaser's benefit upon taking the assignment) plus fees of six thousand eight-hundred dollars (\$6,800):

- (a) Part of Lot 6, Concession 6, Markham, more particularly described as Part 6 on Plan 65R-14127, City of Markham, Regional Municipality of York; and
- (b) Part of Lot 6, Concession 6, Markham, more particularly described as Part 3 on Plan 65R-38179, City of Markham, Regional Municipality of York.

The assignment under this Section 4.9 shall become null and void if the transaction contemplated by this Agreement does not close for any reason.

The Receiver has and shall continue to use reasonable commercial efforts to obtain an amendment to the York Region APS to amend the current closing date from January 15, 2024 to February 29, 2024 (with a further option for the Receiver to move the closing date earlier by up to 30 days)..

ARTICLE 5 TAXES

5.1 Taxes

The Purchaser shall be responsible for all federal and provincial sales taxes, land transfer tax, goods and services, HST and other similar taxes and duties and all registration fees payable upon or in connection with the conveyance or transfer of the Purchased Assets to the Purchaser. If the sale of the Purchased Assets is subject to HST, then such tax shall be in addition to the Purchase Price. The Receiver will not collect HST if the Purchaser provides to the Receiver a warranty that it is registered under the ETA, together with a copy of the required ETA registration at least five Business Days prior to Closing, a warranty that the Purchaser shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Receiver in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the Transaction.

ARTICLE 6 CLOSING ARRANGEMENTS

6.1 Closing.

Closing shall take place at the Closing Time on the Closing Date or at such other time as the Parties may agree in writing.

6.2 Tender.

Any tender of documents or money under this Agreement may be made upon the Parties or their respective lawyers, and money shall be tendered by wire transfer of immediately available funds to the account specified by the receiving Party.

6.3 Receiver's Closing Deliverables.

The Receiver covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date as expressly provided herein:

- (1) a copy of the issued Approval and Vesting Order and the attached Receiver's Certificate;
- (2) a statement of adjustments prepared in accordance with section 4.6 hereof;
- (3) an undertaking by the Receiver to readjust the adjustments set out in section 4.6 hereof;
- (4) an assignment and assumption agreement for all Permits and Consents and Approvals pertaining to the Purchased Assets (to the extent assignable) relating to the period from and after the Closing Date, and to the extent not assignable, an agreement by the Receiver to hold same in trust for the Purchaser;
- (5) a certificate from the Receiver, dated as of the Closing Date, certifying:
 - (a) that, except as disclosed in the certificate, the Receiver has not been served with any notice of appeal with respect to the Approval and Vesting Order, or any notice of any application, motion or proceedings seeking to set aside or vary the Approval and Vesting Order or to enjoin, restrict or prohibit the Transaction;
 - (b) that all representations, warranties and covenants of the Receiver contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time; and
 - (c) the non-merger specified in section 14.2 and elsewhere herein; and
- (6) an acknowledgement, dated as of the Closing Date, that each of the conditions in section 7.1 hereof has been fulfilled, performed or waived as of the Closing Time.

6.4 Purchaser's Closing Deliverables.

The Purchaser covenants to execute, where applicable, and deliver the following to the Receiver at Closing or on such other date as expressly provided herein:

- (1) the indefeasible payment and satisfaction in full of the Purchase Price according to section 4.3 hereof;
- (2) an undertaking by the Purchaser to readjust the adjustments set out in section 4.6 hereof;
- (3) an acknowledgement, dated as of the Closing Date, that each of the conditions in section 7.3 hereof has been fulfilled, performed or waived as of the Closing Time;
- (4) an assignment and assumption agreement for all Permits and Consents and Approvals pertaining to the Purchased Assets (to the extent assignable) relating to the period from

and after the Closing Date, and to the extent not assignable, an agreement to hold same in trust for the Purchaser;

- (5) a certificate from the Purchaser, dated as of the Closing Date, certifying:
 - (a) that all representations, warranties and covenants of the Purchaser contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time; and
 - (b) the non-merger specified in section 14.2 and elsewhere herein;
- (6) if necessary, payment or evidence of payment of HST applicable to the Purchased Assets or, if applicable, appropriate tax exemption and indemnification certificates to the Receiver's satisfaction, acting reasonably, with respect to HST in accordance with Article 5 hereof; and
- (7) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Receiver, acting reasonably, Applicable Law or any Government Authority.

6.5 Receiver's Certificate.

Upon receipt of written confirmation from the Purchaser that all of the conditions contained in section 7.3 have been satisfied or waived by the Purchaser, and upon satisfaction or waiver by the Receiver of all of the conditions contained in section 7.1, the Receiver shall forthwith deliver to the Purchaser the Receiver's Certificate comprising Schedule "A" of the Approval and Vesting Order, and shall file same with the Court.

6.6 Assumed Contracts.

The Purchaser shall provide Notice to the Receiver prior to the expiry of the Due Diligence Period of those Contracts that it intends to assume (the "**Assumed Contracts**"). Notwithstanding anything herein contained, the Purchaser will not assume any of the Contracts except the Assumed Contracts.

ARTICLE 7 CONDITIONS PRECEDENT TO CLOSING

7.1 Conditions in Favour of the Receiver.

The obligation of the Receiver to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (1) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (2) all the covenants of the Purchaser contained in this Agreement to be performed on or before the Closing Date shall have been duly performed by the Purchaser;

- (3) the Purchaser shall have complied with all the terms contained in this Agreement applicable to the Purchaser prior to the Closing Date;
- (4) there shall be no Claim, litigation or proceedings pending or threatened or order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper; and
- (5) the Court shall have issued the Approval and Vesting Order.

7.2 Conditions in Favour of Receiver Not Fulfilled.

If any of the conditions contained in section 7.1 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Receiver, then the Receiver may, at its sole discretion, and without limiting any rights or remedies available to it at law or in equity:

- (a) terminate this Agreement by notice to the Purchaser, in which event the Receiver shall be released from its obligations under this Agreement to complete the Transaction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

7.3 Conditions in Favour of the Purchaser.

The obligation of the Purchaser to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (a) all the representations and warranties of the Receiver contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Receiver under this Agreement to be performed on or before the Closing Date shall have been duly performed by the Receiver;
- (c) the Receiver shall have complied with all the terms contained in this Agreement applicable to the Receiver prior to the Closing Date;
- (d) there shall be no Claim, litigation or proceedings pending or threatened or order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper; and
- (e) the Court shall have issued the Approval and Vesting Order.

7.4 Conditions in Favour of Purchaser Not Fulfilled.

If any of the conditions contained in section 7.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Purchaser, then the Purchaser may, in its sole discretion:

- (a) terminate this Agreement by notice to the Receiver, in which event the Purchaser and the Receiver shall be released from their obligations under this Agreement to complete the Transaction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

ARTICLE 8 REPRESENTATIONS & WARRANTIES OF THE RECEIVER

The Receiver represents and warrants to the Purchaser as follows, with the knowledge and expectation that the Purchaser is placing complete reliance thereon and, but for such representations and warranties, the Purchaser would not have entered into this Agreement:

- (1) the Receiver has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary action on the part of the Receiver, subject to the Approval and Vesting Order. This Agreement is a valid and binding obligation of the Receiver enforceable in accordance with its terms;
- (2) the Receiver has been duly appointed by the Court, with the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey the Purchased Assets; and
- (3) the Receiver is not a non-resident of Canada for the purposes of the ITA.

ARTICLE 9 REPRESENTATIONS & WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Receiver as follows, with the knowledge and expectation that the Receiver is placing complete reliance thereon and, but for such representations and warranties, the Receiver would not have entered into this Agreement:

- (1) the Purchaser is a corporation duly formed and validly subsisting under the laws of the Province of Ontario;
- (2) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constituting documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Government Authority, or

any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;

- (3) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date; and
- (4) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

ARTICLE 10 COVENANTS

10.1 Mutual Covenants.

Each of the Receiver and the Purchaser hereby covenants and agrees that, from the date hereof until Closing, each shall take all such actions as are necessary to have the Transaction approved in the Approval and Vesting Order on substantially the same terms and conditions as are contained in this Agreement, and to take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the conditions set forth in Article 7 hereof.

10.2 Receiver Covenants.

The Receiver hereby covenants and agrees that, from the date hereof until Closing, it shall take all such reasonable actions as are necessary to provide to the Purchaser all necessary information in respect of the Purchased Assets reasonably required to complete, if necessary, the applicable tax elections in accordance with section ARTICLE 5 hereof and to execute all necessary forms related thereto.

10.3 Purchaser Covenants.

The Purchaser hereby covenants and agrees that, from the date hereof until the Closing Date, it shall take all such actions as are necessary to provide to the Receiver all necessary information in respect of the Purchaser reasonably required to complete, if necessary, the applicable tax elections in accordance with section ARTICLE 5 hereof and to execute all necessary forms related thereto.

ARTICLE 11 POSSESSION AND ACCESS PRIOR TO CLOSING

11.1 Possession of Purchased Assets.

At the Closing Time, the Purchaser shall take possession of the Purchased Assets where situated. In no event shall the Purchased Assets be sold, assigned, conveyed or transferred to the Purchaser until all the conditions set out in the Approval and Vesting Order have been satisfied or waived and the Purchaser has satisfied or the Receiver has waived all the delivery requirements outlined in section 7.1 hereof.

11.2 Examination of Title and Access to the Purchased Assets.

- (1) The Purchaser acknowledges and agrees that it shall, at its own cost and expense (regardless of results), examine title to the Purchased Assets, and satisfy itself as to the state thereof, satisfy itself as to outstanding work orders affecting the Purchased Assets, satisfy itself as to the use of the Real Property being in accordance with applicable zoning requirements and satisfy itself that any and all buildings and structures on the Real Property, if any, may be insured to the satisfaction of the Purchaser. The Purchaser further acknowledges that, notwithstanding any statutory provisions to the contrary, the Purchaser has no right to submit requisitions in regard to any outstanding work orders, deficiency notices or orders to comply issued by any Governmental Authority. The Purchaser further acknowledges and agrees that it shall not call upon the Receiver to produce any title deed, abstract of title, survey or other evidence of title that is not within the Receiver's possession or control.
- (2) The Purchaser and its agents and representatives may have reasonable access to the Real Property during normal business hours in the Interim Period for the purpose of enabling the Purchaser, at its sole cost and expense (regardless of results), to conduct such non-destructive, non-invasive inspections of the Real Property as it deems appropriate. The Purchaser agrees that such tests and inspections shall not include any tests or inspections by any Governmental Authority and specifically acknowledges and agrees that it shall not request or, through its actions, prompt or cause any tests or inspections to be made by any Governmental Authority. Such inspection may, if the Receiver so desires, be conducted in the presence of a representative of the Receiver.
- (3) The Purchaser covenants and agrees to repair or pay the costs to repair any damage occasioned during or resulting from the inspection of the Real Property conducted by the Purchaser or its authorized representatives, as outlined above, and to return the Real Property to substantially the condition same was in prior to such inspections. The Purchaser covenants and agrees to indemnify and save the Receiver harmless from and against all losses, costs, claims, third party claims, damages, expenses (including actual legal costs) which the Receiver may suffer as a result of the inspection of the Real Property conducted by the Purchaser or its authorized representatives, as outlined above.

11.3 Risk.

- (1) The Purchased Assets shall be and remain at the risk of the Receiver until Closing and at the risk of the Purchaser from and after Closing.

- (2) If, prior to the Closing Date, all or a material part of the Real Property is expropriated or a notice of expropriation or intent to expropriate all or a material part of the Real Property is issued by any Governmental Authority, the Receiver shall immediately advise the Purchaser thereof by Notice in writing. The Purchaser shall, by Notice in writing given within three Business Days after the Purchaser receives Notice in writing from the Receiver of such expropriation, elect to either: (i) complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price, and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Receiver or the Debtor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis; or (ii) terminate this Agreement and not complete the Transaction, in which case all rights and obligations of the Receiver and the Purchaser (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith.

ARTICLE 12 AS IS, WHERE IS

12.1 Condition of the Purchased Assets.

The Purchaser acknowledges that the Receiver is selling and the Purchaser is purchasing the Purchased Assets on an "*as is, where is*" and "*without recourse*" basis as the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist on the Closing Date, whether patent or latent. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that neither the Receiver nor the Debtor has guaranteed or will guarantee title to or marketability, use or quality of the Purchased Assets, that the Purchaser has conducted such inspections of the condition and title to the Purchased Assets as it deems appropriate and has satisfied itself with regard to these matters. Except as set out in this Agreement, no representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Receiver to sell, assign, convey or transfer same, save and except as expressly provided in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Purchaser. The description of the Purchased Assets contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description.

ARTICLE 13 TERMINATION

13.1 Termination of this Agreement.

This Agreement may (or, in the case of section 13.1(7) below, shall) be validly terminated:

- (1) upon the mutual written agreement of the Parties;
- (2) pursuant to Section 4.7 hereof by the Purchaser;
- (3) pursuant to Section 4.8 hereof by the Receiver;
- (4) pursuant to section 7.2 hereof by the Receiver;
- (5) pursuant to section 7.4 hereof by the Purchaser;
- (6) pursuant to section 11.3 hereof; or
- (7) automatically, should Closing have not occurred prior to the discharge of KSV as the Receiver, unless the Receiver's interest in this Agreement has been assigned prior to (or as part of) the Receiver's discharge.

13.2 Remedies for Breach of Agreement.

If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Receiver under this Agreement, then the Deposit, without deduction, shall be returned to the Purchaser forthwith (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Purchaser's sole right and remedy as a result of the Receiver's breach). If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Purchaser under this Agreement, then the Deposit shall be forfeited to the Receiver as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Receiver would suffer in such circumstances (and, for greater certainty, and notwithstanding any other provision in this Agreement, this shall be the Receiver's sole right and remedy as a result of the Purchaser's breach).

13.3 Termination If No Breach of Agreement.

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then:

- (1) all obligations of each of the Receiver and the Purchaser hereunder shall end completely, except those that survive the termination of this Agreement;
- (2) the Deposit, without deduction, shall be returned to the Purchaser forthwith; and
- (3) neither Party shall have any right to specific performance, to recover damages or expenses or to any other remedy (legal or equitable) or relief.

ARTICLE 14 GENERAL CONTRACT PROVISIONS

14.1 Further Assurances.

From time to time after Closing, each of the Parties shall execute and deliver such further documents and instruments and do such further acts and things as may be required to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof.

14.2 Survival Following Completion.

Notwithstanding any other provision of this Agreement, section 4.6, article 8, article 9, section 13.2 and section 13.3 shall survive the termination of this Agreement and the completion of the Transaction, provided, however, that upon the discharge of KSV as the Receiver, the Parties' respective obligations by reason of this Agreement shall end completely and they shall have no further or continuing obligations by reason thereof.

14.3 Notice.

All notices, requests, demands, waivers, consents, agreements, approvals, communications or other writings required or permitted to be given hereunder or for the purposes hereof (each, a "Notice") shall be in writing and be sufficiently given if personally delivered, sent by prepaid registered mail or transmitted by email, addressed to the Party to whom it is given, as follows:

(a) to the Receiver:

KSV Restructuring Inc.
220 Bay Street, 14th Floor
PO Box 20
Toronto, ON M5J 2W4
Attention: Bobby Kofman and Jordan Wong
Email: bkofman@ksvadvisory.com,
and jwong@ksvadvisory.com

and a copy to the Receiver's counsel to:

Paliare Roland LLP
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1
Attention: Jeffrey Larry and Dan Rosenbluth
Email: jeff.larry@paliareroland.com and
daniel.rosenbluth@paliareroland.com

(b) to the Purchaser:

1000707996 Ontario Inc.
802 Cochrane Drive, Unit 1
Markham, Ontario, L3R 8C9

Attention: Reego Xue
Email: r.xue@regencyproperty.ca

and a copy to the Purchaser's counsel to:

WeirFoulds LLP
4100 – 66 Wellington St. W.
PO Box 35, TD Bank Tower
Toronto, Ontario M5K 1B7

Attention: Patrick Nugent
Telephone: (416) 947-5035
Email: pnugent@weirfoulds.com

or such other address of which Notice has been given. Any Notice mailed as aforesaid will be deemed to have been given and received on the third Business Day following the date of its mailing. Any Notice personally delivered will be deemed to have been given and received on the day it is personally delivered, provided that if such day is not a Business Day, the Notice will be deemed to have been given and received on the Business Day next following such day. Any Notice transmitted by email will be deemed given and received on the first Business Day after its transmission.

If a Notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the fourth Business Day after the mailing thereof, such Notice will be deemed to have not been received unless otherwise personally delivered or transmitted by email.

14.4 Waiver.

No Party will be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing and such waiver will be limited to the circumstance set forth in such written waiver.

14.5 Consent.

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit or the requirement for such consent is not required pursuant to the terms of the Approval and Vesting Order, then, unless otherwise

specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

14.6 Governing Law.

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties irrevocably attorn to the jurisdiction of the Court. The Parties consent to the exclusive jurisdiction and venue of the Court for the resolution of any disputes between them, regardless of whether or not such disputes arose under this Agreement.

14.7 Entire Agreement.

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties. There are not and will not be any verbal statements, representations, warranties, undertakings or agreements between the Parties. This Agreement may not be amended or modified in any respect except by written instrument signed by the Parties. The recitals herein are true and accurate, both in substance and in fact.

14.8 Time of the Essence.

Time will be of the essence, provided that if the Parties establish a new time for the performance of an obligation, time will again be of the essence of the new time established.

14.9 Time Periods.

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

14.10 Assignment.

This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, legal and personal administrators, successors and permitted assigns. The Purchaser may not assign this Agreement without the Receiver's prior written approval, which consent will not be withheld unreasonably. Up until the granting of the Approval and Vesting Order, the Purchaser shall have the right to direct that title to the Purchased Assets be taken in the name of another person, entity, joint venture, partnership or corporation (presently in existence or to be incorporated) provided that the Purchaser notifies the Receiver of the name of the assignee at least 7 Business Days prior to issuance of the Approval and Vesting Order and that the assignee shall, in writing, agree to assume and be bound by the terms and conditions of this Agreement (the "**Assumption Agreement**") and a copy of such Assumption Agreement is delivered to the Receiver forthwith after having been entered into, in which case the Purchaser shall nonetheless not be released from any and all further obligations and liabilities hereunder.

14.11 Expenses.

Except as otherwise set out in this Agreement, all costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

14.12 Severability.

If any portion of this Agreement is prohibited in whole or in part in any jurisdiction, such portion shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining portions of this Agreement and shall, as to such jurisdiction, be deemed to be severed from this Agreement to the extent of such prohibition.

14.13 No Strict Construction.

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

14.14 Cumulative Remedies.

Unless otherwise expressly stated in this Agreement, no remedy conferred upon or reserved to one or both of the Parties is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

14.15 Currency.

All references to dollar amounts contained in this Agreement shall be deemed to refer to lawful currency of Canada.

14.16 Receiver's Capacity.

It is acknowledged by the Purchaser that KSV is entering into this Agreement solely in its capacity as the Receiver and that KSV shall have absolutely no personal or corporate liability under or as a result of this Agreement in any respect.

14.17 Planning Act.

This Agreement is to be effective only if the provisions of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, are complied with.

14.18 No Third Party Beneficiaries.

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns, nothing in this Agreement shall be

construed to create any rights or obligations except amongst the Parties and no other person or entity shall be regarded as a third party beneficiary of this Agreement.

14.19 Number and Gender.

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

14.20 Counterparts.

This Agreement may be executed in counterparts and by facsimile or PDF, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF the Receiver has duly executed this Agreement as of the date first above written.

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of the Debtor and not in its personal capacity or in any other capacity

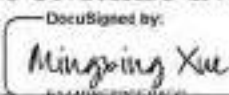
Per: 

Name: Bobby Kofman

Title: Licensed Insolvency Trustee

ACCEPTED by the Purchaser this 29th day of November, 2023

1000707996 ONTARIO INC.

Per: 

Name: Mingxing xue

Authorized Signing Officer

SCHEDULE A (APS)

“Real Property”

Legal Description: PT LT 6, CON 6, AS IN R640261; MARKHAM
PIN: 02962 – 0270 LT
Municipal Address: 7810 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN MA69140; MARKHAM
PIN: 02962 – 0271 LT
Municipal Address: 7822 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, PART 1, 2, 65R17687
PIN: 02962 – 0272 LT
Municipal Address: 7834 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN R491185; T/W MA54373
PIN: 02962 – 0273 LT
Municipal Address: 7846 MCCOWAN ROAD, MARKHAM, ONTARIO

**SCHEDULE B (APS)
"Approval and Vesting Order"**

Court File No. CV-23-00698395-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) DAY, THE
JUSTICE) DAY OF , 2023

BETWEEN

ATRIUM MORTGAGE INVESTMENT CORPORATION and DORR CAPITAL CORPORATION


Plaintiffs

- and -

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI and CARLO TAURASI

Defendants

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**"), without security, of the assets, undertakings and properties of Stateview Homes (NAO Towns II) Inc. (the "**Debtor**"), for an order, *inter alia*, approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver, as vendor, and  (the "**Purchaser**"), as purchaser,

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dated [REDACTED], 2023 (the "**Sale Agreement**") and vesting in the Purchaser the Purchased Assets (as defined in the Sale Agreement), was heard this day.

ON READING the Receiver's Report to the Court and appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [REDACTED] sworn [REDACTED], 2023, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of the Purchased Assets described in the Sale Agreement, including, without limitation, all of the Debtor's right, title and interest in and to the real property listed on **Schedule "B"** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or

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charges created by the Order of The Honourable Justice Steele made on May 2, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Real Property identified in **Schedule "B"** hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule "C"** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of any of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

Schedule "A" (AVO) – Form of Receiver's Certificate

Court File No. CV-23-00698395-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN

**ATRIUM MORTGAGE INVESTMENT CORPORATION and DORR CAPITAL
CORPORATION**

Plaintiffs

- and -

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI and CARLO TAURASI

Defendants

RECEIVER'S CERTIFICATE

WHEREAS pursuant to an Order of The Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on May 2, 2023, KSV Restructuring Inc. was appointed as receiver and manager (in such capacity, the "**Receiver**"), without security, of the assets, undertakings and properties of Stateview Homes (NAO Towns II) Inc. (the "**Debtor**").

AND WHEREAS pursuant to an Order of the Court dated [REDACTED], 2023, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and [REDACTED] (the "**Purchaser**"), as purchaser, dated [REDACTED], 2023 (the "**Sale Agreement**"), and provided for the vesting in the Purchaser of the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with

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respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

AND WHEREAS unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

NOW THEREFORE THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of the Debtor, and not in its personal capacity or in any other capacity

Per: _____

Name: Bobby Kofman

Title: Licensed Insolvency Trustee

Schedule "B" (AVO) – Real Property

Legal Description: PT LT 6, CON 6, AS IN R640261; MARKHAM
PIN: 02962 – 0270 LT
Municipal Address: 7810 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN MA69140; MARKHAM
PIN: 02962 – 0271 LT
Municipal Address: 7822 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, PART 1, 2, 65R17687
PIN: 02962 – 0272 LT
Municipal Address: 7834 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN R491185; T/W MA54373
PIN: 02962 – 0273 LT
Municipal Address: 7846 MCCOWAN ROAD, MARKHAM, ONTARIO

Schedule "C" (AVO) – Instruments to Be Deleted from Title

PIN 02692-0270 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428361	2022/05/20	Transfer	\$17,200,000	10616389 Canada Limited	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen.		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 02962-0271 (L.T)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428360	2022/05/20	Transfer	\$12,300,000	Weycliffe International Development Inc.	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 02962-0272 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428360	2022/05/20	Transfer	\$12,300,000	Weycliffe International Development Inc.	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 02962-0273 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428360	2022/05/20	Transfer	\$12,300,000	Weycliffe International Development Inc.	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

Schedule "D" (AVO) – Permitted Encumbrances**PIN 02962-0270 (LT)**

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0271 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0272 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0273 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

**ATRIUM MORTGAGE INVESTMENT
CORPORATION, et al.**

-and-

STATEVIEW HOMES (NAO TOWNS II) INC., et al

Plaintiffs

Defendants

Court File No. CV-23-00698395-00CL

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

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
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Lawyers for the Receiver

SCHEDULE C (APS)**“Permitted Encumbrances”****PIN 02962-0270 (LT)**

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0271 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0272 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0273 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

WAIVER AND AMENDING AGREEMENT

THIS AGREEMENT dated as of the 17th day of January, 2024 (the "**Execution Date**").

BETWEEN:

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of the Debtor and not in its personal capacity or in any other capacity (the "**Vendor**")

- and -

1000707996 ONTARIO INC.
(the "**Purchaser**")

WHEREAS the Purchaser and the Vendor entered into an agreement of purchase and sale dated November 29, 2023, as amended from time to time (collectively, the "**Purchase Agreement**"), pursuant to which the Vendor, solely in its capacity as the Court-appointed receiver and manager of Stateview Homes (NAO Towns II) Inc. (the "**Debtor**") and not in its personal capacity or in any other capacity, has entered an agreement to sell the Purchased Assets (as defined in the Purchase Agreement) including the property municipally known as 7810, 7822, 7834 and 7846 McCowan Road, Markham, Ontario (the "**Property**") to the Purchaser;

AND WHEREAS the Purchaser and the Vendor wish to amend the terms of the Purchase Agreement in accordance with the terms contained herein;

AND WHEREAS the Purchaser wishes to waive the condition in its favour contained Section 4.7 of the Purchase Agreement, subject to the parties agreeing to amend the Purchase Agreement as more particularly set out herein;

AND WHEREAS all capitalized terms used in this Waiver and Amending Agreement, unless otherwise defined herein, have the same meaning as set out in the Purchase Agreement;

NOW THEREFORE in consideration of the mutual covenants, agreements and conditions herein set forth and the sum of Ten (\$10.00) Dollars now paid by each of the Vendor and the Purchaser to the other and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Purchaser hereby confirms that the Due Diligence Condition in its favour provided for in Section 4.7 of the Purchase Agreement has been satisfied and is hereby waived by the Purchaser.

2. The Purchaser and Vendor hereby acknowledge and agree that Section 4.1 of the Purchase Agreement is hereby deleted in its entirety and replaced as follows:
 - a) The purchase price for the Purchased Assets shall be the aggregate of [REDACTED]
3. Except as herein expressly amended herein, the Purchase Agreement shall remain in full force and effect, unamended, and the parties hereto confirm and ratify all terms and conditions contained therein.
4. Each of the parties shall at all times hereafter execute and deliver all such further documents and instruments and shall do such further acts and things as may be reasonably required to give effect to this Waiver and Amending Agreement.
5. Time is and shall be of the essence of this Waiver and Amending Agreement.
6. This Waiver and Amending Agreement shall enure to the benefit and shall be binding upon the parties hereto and their respective successors and assigns.

[remained of page left intentionally blank. Signature page to follow.]

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of the Debtor and not in its personal capacity or in any other capacity



Per: _____

Name: Bobby Kofman

Title: President and Managing Director

Per: _____

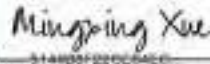
Name:

Title:

I/we have authority to bind the Corporation

1000707996 ONTARIO INC.

DocuSigned by:



Per: _____

Name: Reego Xue

Title: President

I have authority to bind the Corporation

Appendix “J”

This **AGREEMENT OF PURCHASE AND SALE** made as of the 14 day of December, 2022.

B E T W E E N:

THE REGIONAL MUNICIPALITY OF YORK

(the "**Region**")

- and -

STATEVIEW HOMES (NAO TOWNS II) INC.

(the "**Purchaser**")

DESCRIPTION OF PROPERTY

1.1 The Region agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Region the fee simple interest in the following property:

- (a) Part of Lot 6, Concession 6, Markham, more particularly described as Part 6 on Plan 65R-14127, City of Markham, Regional Municipality of York; and
- (b) Part of Lot 6, Concession 6, Markham, more particularly described as Part 3 on Plan 65R-38179, City of Markham, Regional Municipality of York,

collectively referred to as (the "**Property**").

CLOSING DATE

2.1 The closing of this transaction shall take place on March 15, 2023, or as may be mutually agreed by each party's solicitor (the "**Closing Date**").

PAYMENT OF COMPENSATION

3.1 The Purchaser shall pay to the Region on closing the sum of **FOUR HUNDRED AND FORTY-FIVE THOUSAND (\$445,000.00) DOLLARS**, exclusive of harmonized sales tax ("**HST**"), as compensation for the Property (the "**Compensation**") in lawful money of Canada, payable to the Region, or as the Region may direct, by electronic funds transfer.

FEEES

- 4.1 Upon acceptance of this Agreement, the Purchaser agrees to pay appraisal fees incurred by the Region in connection with this Agreement in the amount of **Five Thousand (\$5,000.00)** Canadian dollars, plus applicable HST, on the Closing Date, by electronic funds transfer.
- 4.2 Upon acceptance of this Agreement, the Purchaser agrees to pay to the Region an administration fee of **One Thousand, Eight Hundred (\$1,800.00)** Canadian dollars, on the Closing Date, by electronic funds transfer.

INSPECTION AND CONDITIONS

- 5.1 The Purchaser's obligation to complete this transaction is conditional upon the Purchaser, at its sole risk and expense, conducting its own due diligence investigations with respect to the Property (the "**Due Diligence**") and being satisfied, in its sole and unfettered discretion, with the results thereof, including but not limited to, its evaluation of the condition of the Property (including the environmental, compaction, topographic and geotechnical conditions thereof), the zoning of the Property, the availability of all required municipal, environmental, and other permits required for its intended use of the Property, the availability and location of all services, and all building permit, site plan and site plan agreement conditions and requirements (including application fees, development charges and required security) (the "**Purchaser's Conditions**").
- 5.2 The Purchaser's Conditions are for the sole benefit of the Purchaser and may be waived by the Purchaser in whole or in part. If by 5:00 p.m. on December 20, 2022 (the "**Due Diligence Date**"), the

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Region has not received written notice from the Purchaser, or the Purchaser's solicitor, of the Purchaser's satisfaction or waiver of such conditions, then this Agreement will be deemed to be at an end and the parties shall have no further liability to each other save and except for the Purchaser's obligations and indemnity under Section 5.5, Section 5.6, and Section 5.7, which will survive such termination.

- 5.3 From the date this Agreement is fully executed by the parties until the Due Diligence Date, the Purchaser, its employees, agents, contractors, and consultants shall have the right:
- (a) to enter on the Property for the purpose of preliminary site preparation, pre-engineering, and construction, including conducting soil tests and drilling test holes, as the Purchaser deems appropriate, upon five (5) business days' notice to the Region; and
 - (b) to obtain access to any government records to determine if there are any building deficiencies, violations of law, wastes, hazards, or soil conditions other than those identified in this Agreement which might interfere with the Purchaser's intended use of the Property or with respect to which the Purchaser might be put to any additional expense.
- 5.4 The Purchaser acknowledges that the Purchaser's entry onto the Property to perform the Due Diligence will be subject to any terms and conditions imposed by the Region. Subject to the foregoing, the Region shall execute any required consent or waiver to permit the Purchaser to conduct the Due Diligence including any consent or waiver to permit the Purchaser access to any government records as set out in Section 5.3(b).
- 5.5 The Purchaser shall be responsible for all damages caused by the Purchaser's entry onto the Property. Following entry on the Property, the Purchaser shall within 10 days restore, any part of the Property that is disturbed by said entry to its original condition, without prejudice to any other rights the Region may have at law or in equity. The Purchaser's obligations under this Section shall survive any termination of this Agreement.
- 5.6 The Purchaser shall fully indemnify and save harmless the Region, its Chair, Council members, officers, employees, servants, contractors, contractors' workers, agents, consultants, and invitees (the "**Regional Indemnitees**") from any costs, expenses, liability, suit, claim, demand, fine, action, or proceeding of any kind of which the Regional Indemnitees may become liable or suffer by reason of entry onto the Property by the Purchaser, or those for whom the Purchaser is in law responsible. The Purchaser's indemnity under this Section shall survive any termination of this Agreement.
- 5.7 The Purchaser shall treat the results of all its investigations, surveys, studies and tests in a strictly confidential manner and shall not disclose the results to a third party except where required by law or to complete this transaction, in which case it shall only be shared with a third party on a "need to know basis" and requiring such third party to keep the results confidential. If the Purchaser does not waive the Purchaser's Conditions, the Purchaser shall share the results of the Due Diligence with the Region including providing a copy of the Purchaser's investigations, studies, surveys or tests to the Region. The Purchaser's obligations under this Section shall survive any termination of this Agreement.
- 5.8 The Purchaser acknowledges and agrees that:
- (a) in entering into this Agreement, the Purchaser has relied and will continue to rely entirely and solely upon its own inspections and investigations with respect to the Property, including without limitation, the physical and environmental condition of the Property, and a review of any documentation respecting the Property, and the Purchaser acknowledges it is not relying on any information furnished by the Region or any other person on behalf of, or at the direction of, the Region in connection therewith;
 - (b) The Purchaser acknowledges that the Purchaser is purchasing the Property in "as is, where is" condition, without representation, warranty, or condition, whether express or implied and without abatement of the Compensation or recourse against the Region. Without limiting

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the foregoing, the term “**as is, where is**” means the Property in its condition or state on the Closing Date including but not limited to the state of title to the Property, fitness for purpose, the condition of the Property including the condition of the soil, the subsoil, the ground water, the surface water or any other environmental matters, the condition of the buildings on the Property, if any, or any other matter respecting the Property whatsoever, including without limitation (a) compliance with all applicable laws, regulations, and bylaws including Environmental Laws, (b) the existence of any Environmental Contaminant, (c) the previous or future use to which the Property has been or will be put, or (d) the Property’s zoning.

Without limiting the foregoing, the Purchaser agrees to purchase the Property subject to: (i) any municipal bylaws or regulations affecting the Property or its use and any other municipal land use instruments including without limitation, official plans and zoning and building bylaws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes, (ii) any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute, (iii) the exceptions and qualifications contained in section 44(1) of the *Land Titles Act*, and (iv) any defects, encroachments or breach of a zoning or building bylaw or any other applicable bylaw or regulation.

“**Environmental Law**” means, collectively, all applicable laws and agreements with authorities and all other applicable federal and provincial statutes, municipal and local laws, common law, all bylaws, regulations, codes, licenses, permits, approvals, orders, directives, guidelines, lawful decisions rendered by any authority relating to the protection of the environment, natural resources, public health, occupational health and safety or the manufacture, processing, distribution, use, treatment, storage, disposal, packaging, transport, handling, containment, clean-up or other remediation or correct action of any hazardous substance, and all authorizations issued pursuant to such applicable laws, agreements or statutory requirements.

“**Environmental Contaminant**” means (i) any substance which, when it is released to the natural environment, is likely to cause, at any time, material harm to the natural environment or material risk to human health, and includes, without limitation, any flammables, radioactive materials, mercury and its compounds, volatile organic compounds (VOCs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic or noxious substances or related materials, petroleum and petroleum products, (ii) any substance declared to be hazardous or toxic under any applicable Environmental Laws now or hereafter enacted or promulgated by any authority during the term of this Agreement; and/or (iii) any substance subject to any control or regulation by any authority, including any substance the release of which in the natural environment is subject to statutes and regulations enacted by any authority.

- (c) the Region shall have no obligations or responsibility to the Purchaser after the Closing Date with respect to any matter relating to the Property or the condition thereof. Without limiting the provisions of Section 5.11, the Purchaser acknowledges that the provisions of this Section shall survive and not merge on the Closing Date.

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- 5.9 The Region represents and warrants to the Purchaser that:
- (a) the Region has the necessary authority, power, and capacity to enter into this Agreement and to complete the transaction in accordance with the terms and conditions of this Agreement;
 - (b) this Agreement and the documents contemplated under this Agreement shall be valid and binding obligations of the Region enforceable against the Region in accordance with their terms; and
 - (c) no third party consents are necessary for the Region to enter into this Agreement.
- 5.10 The Purchaser represents and warrants to the Region that:
- (a) the Purchaser has the necessary authority, power, and capacity to enter into this Agreement and to complete the transaction in accordance with the terms and conditions of this Agreement;
 - (b) this Agreement and the documents contemplated under this Agreement shall be valid and binding obligations of the Purchaser enforceable against the Purchaser in accordance with their terms; and
 - (c) no third party consents are necessary for the Purchaser to enter into this Agreement.
- 5.11 The warranties and conditions contained in this Agreement shall not merge on and shall survive the closing of the transaction. If, in its sole discretion, the Purchaser determines that the warranties or conditions have been breached, the Purchaser may elect to terminate this Agreement.

TITLE

- 6.1 The Region represents and warrants that title to the Property is and will be on the Closing Date good and free from restrictions, covenants, easements, charges, liens, and encumbrances except for the encumbrances listed in **Schedule "A"** attached to this Agreement (the "**Permitted Encumbrances**").
- 6.2 The Purchaser shall be allowed until the Closing Date to investigate title at its own expense and if within that time any valid objection to title is made in writing to the Region, which the Region shall be unable or unwilling to remove, and which the Purchaser will not waive, this Agreement shall be, at the election of the Purchaser, null and void.
- 6.3 Provided that title to the Property is free and clear of all encumbrances, the Purchaser shall not call for the production of any title deeds or abstracts of title, proof of evidence of title, other than those in possession or control of the Region.
- 6.4 The Region shall deliver to the Purchaser, on or before the Closing Date, each of the following:
- (a) a registrable transfer/deed in favour of the Purchaser, in a form acceptable to the Purchaser (except for any *Land Transfer Tax Act* affidavits); and
 - (b) such other deeds, conveyances, resolutions, and other documents as the Purchaser may reasonably require in order to implement the intent of this Agreement.
- 6.5 There shall be no adjustments to the Compensation on closing for realty taxes or utility charges.

CLOSING ARRANGEMENTS

- 7.1 Where each of the Region and the Purchaser retains a solicitor to complete this Agreement, and where the transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act*, R.S.O. 1990, c. L4, as amended, the Region and the Purchaser acknowledge and agree that the delivery of documents and the release thereof to the Region and the Purchaser may, at the solicitors' discretion: (a) not occur contemporaneously with the registration of the transfer/deed (and other registrable documentation); and (b) be subject to conditions whereby the solicitor receiving documents and/or money will be required to hold them in trust and not release them except in accordance with the terms of a written agreement between the solicitors.

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HARMONIZED SALES TAX

8.1 If the sale of the Property is subject to HST, then such tax will be payable by the Purchaser in addition to the Compensation.

IRREVOCABILITY

9.1 Upon the date of execution of this Agreement by the Purchaser, the Purchaser shall be deemed to make an offer to the Region, which shall be irrevocable by the Purchaser for one hundred twenty (120) days. Acceptance of this offer by Regional Council or its designate shall be good and sufficient acceptance.

GENERAL

- 10.1 Time shall be of the essence.
- 10.2 Any covenants of this Agreement not completed on or before the Closing Date shall survive the closing.
- 10.3 This Agreement, including any attached schedules, constitutes the entire agreement between the parties, and there is no representation, warranty, collateral agreement, or condition affecting this Agreement or the Property.
- 10.4 Any tender of documents or money under this Agreement may be made upon the Region or the Purchaser, or their solicitors.
- 10.5 The provisions of this Agreement shall extend to, bind and enure to, the benefit of the heirs, executors, administrators, successors, and assigns, as the case may be, of each of the parties.
- 10.6 This Agreement shall be construed in accordance with the laws of the Province of Ontario.
- 10.7 This Agreement shall be subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended.
- 10.8 Each of the parties shall promptly do, make, execute, deliver or cause to be done, made, executed or delivered all such further acts, documents, and things as the other party may reasonably require for the purpose of giving effect to this Agreement whether before or after the Closing Date.
- 10.9 This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts shall be accepted in original, electronic, or facsimile form, and the parties to this Agreement adopt any signatures received by receiving facsimile or electronic mail as original signatures of the parties.
- 10.10 Schedules "A" and "B" form part of this Agreement.

NOTICE

11.1 Any notice under this Agreement is sufficiently given if delivered personally or if sent by ordinary prepaid mail or prepaid courier to the Region at:

The Regional Municipality of York
17250 Yonge Street
Newmarket, ON L3Y 6Z1
Attention: Manager, Realty Services
Telephone: 1877-464-9675 ext. 71706
Fax: 905-952-3134
Email: eric.bjornson@york.ca

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and to the Purchaser at:

StateView Homes (Nao Towns II) Inc.
16-410 Chrislea Road
Woodbridge, ON L4L 8B5
Attention: Nicole Sampogna
Telephone: 905-851-1849
Email: nicole@stateviewhomes.com

This **AGREEMENT OF PURCHASE AND SALE** is effective on the date written above.

STATEVIEW HOMES (NAO TOWNS II) INC.

Per: 
Name: Daniel Ciccone
Title: Secretary
I have authority to bind the corporation.

Authorized by:

THE REGIONAL MUNICIPALITY OF YORK

Bylaw No. 2018-50

Approved by Solicitor: 

DocuSigned by: 
57A96005F6BB449...
Bruce Macgregor
Chief Administrative Officer

Schedule "A"*Permitted Encumbrances*

1. Any restrictions, limitations or conditions contained in the original grant from the crown.
2. Any restrictions, limitations or conditions imposed by any applicable building and zoning bylaws.
3. All easements existing at the date of acceptance of this Agreement, whether registered or unregistered, for hydro, gas, telephone or like services to the Property.
4. Agreements and restrictions on title to the extent that they have been complied with, including Instrument No. YR685037 – Notice re: Airport Zoning registered on August 16, 2005.
5. All bylaws registered on title at the date of acceptance of this Agreement, including without limitation:
 - (a) Instrument No. MA89209 – Dedicating Bylaw registered on February 6, 1965
 - (b) Instrument No. R261406 – Renaming of Regional Roads Bylaw registered on November 19, 1980.
6. Instrument No. MA54784 – Easement reserved in Transfer registered on August 4, 1965.

Schedule "B"

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between The Regional Municipality of York and **STATEVIEW HOMES (NAO TOWNS II) INC**, dated the 14 day of December, 2022.

The Purchaser acknowledges that this Agreement is conditional on Regional Council passing and enacting a bylaw stopping up and closing the Property as public highway and the registration on title of the bylaw on or before the Closing Date, failing which this Agreement shall be null and void.

Appendix “K”

AMENDMENT TO AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT dated as of the 13th day of March, 2023.

BETWEEN:

THE REGIONAL MUNICIPALITY OF YORK

(hereinafter called the "Region")

OF THE FIRST PART

- and -

STATEVIEW HOMES (NAO TOWNS II) INC.

(hereinafter called the "Purchaser")

OF THE SECOND PART

WHEREAS:

- A. The Region and the Purchaser entered into an agreement of purchase and sale dated as of December 14th, 2022 (the "Purchase Agreement"), whereby the Region agreed to sell and the Purchaser agreed to purchase those certain lands and premises as more particularly described in the Purchase Agreement (the "Property");
- B. The Region and the Purchaser have agreed to amend the Purchase Agreement as hereinafter set out.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the mutual covenants and agreements herein set out, the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the others and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party hereto), the parties hereto hereby agree as follows:

1. Capitalized Terms

All capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed thereto in the Purchase Agreement.

2. Amendments

The Purchase Agreement is hereby amended as follows:

- (a) Section 2.1 is hereby deleted in its entirety and replaced with the following:

"2.1 The closing of this transaction shall take place on May 31, 2023 (the "Closing Date")."

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- (b) The following new Section 3.2 is hereby added to the Purchase Agreement:
- "3.2 Prior to 4:00 pm on Tuesday, March 14th, 2023, the Purchaser shall submit a deposit of Fifty Thousand Canadian Dollars (\$50,000.00) (the "Deposit") by electronic funds transfer payable to the Region. There shall be no obligation on the Region to invest the Deposit in an interest bearing account or a guaranteed investment certificate of a Canadian Schedule I chartered bank. The Deposit (but not the interest accrued thereon, if any) shall be credited against the Compensation on closing. Notwithstanding the foregoing or anything else contained herein, the Purchaser acknowledges and confirms that the Deposit is deemed to be non-refundable to the Purchaser and fully earned by and released to the Region effective as of March 14, 2023. For clarity, the Purchaser hereby irrevocably authorizes and directs the Region to release the Deposit on March 14, 2023. The balance of the Compensation shall be payable to the Region or as it directs, on closing in accordance with Section 3.1 hereof. In the event that this Agreement is terminated for any reason or the transaction contemplated herein does not close for any reason on or before the Closing Date, the Deposit together with interest accrued thereon (if any) shall be retained by the Region as liquidated damages and not as a penalty.";
- (c) Section 6.2 is hereby amended by deleting the words "the Closing Date" in the first line and replacing them with "March 15th, 2023". In addition, Section 6.2 is hereby amended by adding the following sentence at the end of the Section:
- "The Purchaser shall not be allowed to submit any further requisitions.";
- (d) Section 6.5 is hereby amended by adding the following sentence at the end of the Section:
- "Notwithstanding the Closing Date, the parties acknowledge and agree that any other adjustments to the Compensation shall be calculated as of March 15, 2023.";
- (e) Section 10.4 is hereby deleted in its entirety and replaced with the following:
- "10.4 The Purchaser acknowledges and agrees that the Region has delivered all applicable closing documents to the Purchaser's solicitor in escrow, completed all other steps required to complete the transaction and the Region is ready, willing and able to close the transaction contemplated in this Agreement on or before the Closing Date. The Purchaser further acknowledges and agrees that the Region shall be relieved of its obligation to tender in the event the transaction of purchase and sale contemplated in this Agreement does not close on or before the Closing Date."
- (f) Section 11.1 is hereby amended by deleting the first sentence and replacing it with:
- "Any notice under this Agreement is sufficiently given if delivered personally or

- 3 -

electronically or if sent by ordinary prepaid mail or prepaid courier addressed to the Region or the Purchaser respectively as set out below:"

3. Confirmation

In all other respects, the terms and conditions of the Purchase Agreement shall remain the same and time shall continue to be of the essence.

4. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

5. Counterparts/Electronic Transmission

This Agreement may be executed in separate counterparts, each of which when executed shall be deemed to be an original, and such counterparts taken together shall constitute one and the same agreement. The signature of any party to any counterpart shall be deemed to be a signature to and may be appended to any other counterpart. This Agreement may be executed and delivered by telecopier or other electronic transmission and, if so executed and transmitted, this Agreement shall be for all purposes as effective as if the parties had delivered an executed original Agreement.

6. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

Authorized by:
Bylaw No. 2018-50

THE REGIONAL MUNICIPALITY OF YORK

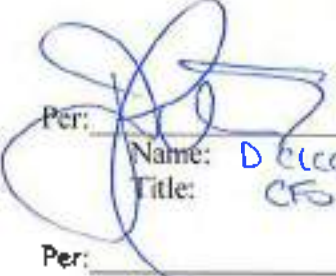
Approved
by Solicitor:

^{DS}


DocuSigned by:

57A96005F6BB449...
Bruce McGregor
Chief Administrative Officer

STATEVIEW HOMES (NAO TOWNS II) INC.


Per: _____
Name: D. LeClerc
Title: CFO
Per: _____
Name:
Title:

I/We have authority to bind the corporation.

Appendix “L”

SECOND AMENDMENT TO AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT dated as of the 31st day of May, 2023.

BETWEEN:

THE REGIONAL MUNICIPALITY OF YORK

(hereinafter called the "**Vendor**")

OF THE FIRST PART

- and -

**KSV RESTRUCTURING INC. in its capacity as Court-appointed Receiver of
STATEVIEW HOMES (NAO TOWNS II) INC.**

(hereinafter called the "**Purchaser**")

OF THE SECOND PART

WHEREAS:

- A. The Vendor and Stateview Homes (NAO Towns II) Inc. (the "**Original Purchaser**") entered into an agreement of purchase and sale dated as of December 14th, 2022, as amended by a further agreement dated as of March 13th, 2023 (collectively, the "**Purchase Agreement**"), whereby the Vendor agreed to sell and the Original Purchaser agreed to purchase those certain lands and premises legally described in the Purchase Agreement (the "**Property**");
- B. By an order of Madam Justice Steele, dated May 2nd, 2023 (the "**Appointment Order**"), KSV Restructuring Inc. was appointed receiver (the "**Receiver**") of all of the assets, undertaking and properties of the Original Purchaser acquired for, or used in relation to a business carried on by the Original Purchaser;
- C. Paragraph 3(c) of the Appointment Order empowers and authorizes the Receiver to manage, operate and carry on business of the Original Purchaser, including the power to enter into any agreements and incur any obligations in the ordinary course of business of the Original Purchaser;
- D. Paragraph 3(c) of the Appointment Order further empowers the Receiver to cease to perform any contracts of the Original Purchaser, provided the Receiver shall not cease to perform, repudiate, or disclaim, any agreements of purchase and sale entered into by the Original Purchaser prior to May 29, 2023, without further Order of the Court;
- E. The prohibition set out in paragraph 3(c) of the Appointment Order applies to the Purchase Agreement;

- F. The Vendor and the Purchaser agree that the foregoing recitals are true and correct;
- G. The Vendor and the Purchaser have agreed to amend the Purchase Agreement as hereinafter set out.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the mutual covenants and agreements herein set out, the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the others and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party hereto), the parties hereto hereby agree as follows:

1. **Capitalized Terms**

All capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed thereto in the Purchase Agreement.

2. **Amendments**

The Purchase Agreement is hereby amended as follows:

- (a) Section 2.1 is hereby deleted in its entirety and replaced with the following:

“2.1 The closing of this transaction shall take place on November 15th, 2023 (the “**Closing Date**”), it being acknowledged that the Closing Date may be extended by the Purchaser for an additional period of up to sixty (60) days on at least thirty (30) day prior written notice to the Vendor.”.

3. **Confirmation and Covenants**

The Receiver covenants and agrees that in consideration of the Vendor agreeing to this amendment to the Purchase Agreement, the Receiver will not take any steps to either amend the Appointment Order, or seek a further Order of the Court, empowering the Receiver to terminate or repudiate the Purchase Agreement, or seek any Order of the Court that would lead to the termination of the Purchase Agreement.

The Receiver will not take any steps under the Appointment Order, or seek a further Order of the Court, to assign the Purchase Agreement to a third party, without the express written consent of the Vendor, which consent shall not be unreasonably withheld.

The Receiver understands and confirms that the Vendor would not have entered into this amendment of the Purchase Agreement, but for the confirmation and covenants contained herein.

In all other respects, the terms and conditions of the Purchase Agreement shall remain the same and time shall continue to be of the essence, and the Purchaser hereby acknowledges and confirms that it has assumed all of the covenants and obligations of the Original Purchaser under the Purchase Agreement.

4. **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

5. **Counterparts/Electronic Transmission**

This Agreement may be executed in separate counterparts, each of which when executed shall be deemed to be an original, and such counterparts taken together shall constitute one and the same agreement. The signature of any party to any counterpart shall be deemed to be a signature to and may be appended to any other counterpart. This Agreement may be executed and delivered by telecopier or other electronic transmission and, if so executed and transmitted, this Agreement shall be for all purposes as effective as if the parties had delivered an executed original Agreement.

6. **Successors and Assigns**


This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

Authorized by:
Bylaw No. 2023-31

**THE REGIONAL MUNICIPALITY OF YORK
(Vendor)**

Approved by  ⁰⁸
solicitor: _____
per Borden Ladner Gervais LLP

DocuSigned by:

Per: _____
Bruce Macgregor
Chief Administrative Officer

**KSV RESTRUCTURING INC. in its capacity as Court-
appointed Receiver of
STATEVIEW HOMES (NAO TOWNS II) INC.**

(Purchaser)

Per: 
Name: Bobby Kofman
Title: President

Per: _____
Name:
Title:

I/We have authority to bind the corporation. The corporation has the authority to bind the Original Purchaser.

NOTICE

TO: THE REGIONAL MUNICIPALITY OF YORK (the “**Vendor**”).

WHEREAS the Vendor and Stateview Homes (NAO Towns II) Inc. (the “**Purchaser**”) entered into an agreement of purchase and sale dated December 14, 2022 (the “**Purchase Agreement**”) for the purchase of the property described in section 1.1 of the Purchase Agreement;

AND WHEREAS the Purchase Agreement was amended on March 13, 2023 to extend the Closing Date (as defined in the Purchase Agreement) to May 31, 2023;


AND WHEREAS on May 2, 2023, KSV Restructuring Inc. was appointed receiver and manager (the “**Receiver**”) of all of the assets, undertaking and properties of the Purchaser;

AND WHEREAS on May 31st, 2023, the Receiver, in its capacity as receiver and manager of the Purchaser, and the Vendor entered into a further amending agreement to extend the Closing Date to November 15, 2023 and give the Purchaser the right to extend the Closing Date for up to a further 60 days on at least 30 days notice to the Vendor.

NOW THEREFORE BE ADVISED THAT this constitutes written notice that the Purchaser is exercising its right under Section 2.1 of the Purchase Agreement (as amended) to extend the Closing Date of November 15, 2023 for an additional sixty (60) days to January 15, 2024.

Date this 11th day of October, 2023

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of the Purchaser and not in its personal capacity or any other capacity

Per: 
Robert Kofman

Appendix “M”

THIRD AMENDMENT TO AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT dated as of the 19th day of December, 2023.

BETWEEN:

THE REGIONAL MUNICIPALITY OF YORK

(hereinafter called the "**Vendor**")

OF THE FIRST PART

- and -

**KSV RESTRUCTURING INC. in its capacity as Court-appointed Receiver of
STATEVIEW HOMES (NAO TOWNS II) INC.**

(hereinafter called the "**Purchaser**")

OF THE SECOND PART

WHEREAS:

- A. The Vendor and Stateview Homes (NAO Towns II) Inc. (the "**Original Purchaser**") entered into an agreement of purchase and sale dated as of December 14th, 2022, (the "**Purchase Agreement**"), whereby the Vendor agreed to sell and the Original Purchaser agreed to purchase those certain lands and premises legally described in the Purchase Agreement;
- B. The Original Purchaser and the Vendor amended the Purchase Agreement on March 13th, 2023 to extend the Closing Date (as defined in the Purchase Agreement) to May 31st, 2023;
- C. By an order of Madam Justice Steele, dated May 2nd, 2023 (the "**Appointment Order**"), KSV Restructuring Inc. was appointed receiver of all of the assets, undertaking and properties of the Original Purchaser acquired for, or used in relation to a business carried on by the Original Purchaser;
- D. On May 31st, 2023, the Purchaser and the Vendor entered into the Second Amendment to the Purchase Agreement whereby: (i) the Closing Date was extended to November 15th, 2023 and; (ii) the Purchaser was given the option to extend the Closing Date for an additional 60 days;
- E. On October 11th, 2023, the Purchaser notified the Vendor that it was exercising the option to extend the Closing Date to January 15th, 2024;
- F. The Vendor and the Purchaser agree that the foregoing recitals are true and correct; and
- G. The Vendor and the Purchaser have agreed to further amend the Purchase Agreement as hereinafter set out.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT, in consideration of the mutual covenants and agreements herein set out, the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the others and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party hereto), the parties hereto hereby agree as follows:

1. **Capitalized Terms**

All capitalized terms used herein and not otherwise defined herein shall have the respective meanings ascribed thereto in the Purchase Agreement.

2. **Amendments**

The Purchase Agreement is hereby amended as follows:

(a) Section 2.1 is hereby deleted in its entirety and replaced with the following:

“2.1 The closing of this transaction shall take place on February 29th, 2024 (the “Closing Date”).”

3. **Confirmation and Covenants**

The Receiver covenants and agrees that in consideration of the Vendor agreeing to this amendment to the Purchase Agreement as amended, the Receiver will not take any steps to either amend the Appointment Order, or seek a further Order of the Court, empowering the Receiver to terminate or repudiate the Purchase Agreement as amended, or seek any Order of the Court that would lead to the termination of the Purchase Agreement as amended.

The Receiver will not take any steps under the Appointment Order, or seek a further Order of the Court, to assign the Purchase Agreement as amended to a third party, without the express written consent of the Vendor, which consent shall not be unreasonably withheld.

The Receiver understands and confirms that the Vendor would not have entered into this amendment of the Purchase Agreement as amended, but for the confirmation and covenants contained herein.

In all other respects, the terms and conditions of the Purchase Agreement, as amended by an agreement dated March 13th, 2023 and further amended by an agreement dated May 31, 2023, shall remain the same and time shall continue to be of the essence.

4. **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

5. **Counterparts/Electronic Transmission**

This Agreement may be executed in separate counterparts, each of which when executed shall be deemed to be an original, and such counterparts taken together shall constitute one and the same agreement. The signature of any party to any counterpart shall be deemed to be a signature to and may be appended to any other counterpart. This Agreement may be executed and delivered by telecopier or other electronic transmission and, if so executed and transmitted, this Agreement shall be for all purposes as effective as if the parties had delivered an executed original Agreement.

6. **Successors and Assigns**


This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

**THE REGIONAL MUNICIPALITY OF YORK
(Vendor)**

Authorized by:
Bylaw No. 2023-31

Approved by  ⁰⁸
solicitor: _____
per Borden Ladner Gervais LLP

DocuSigned by:

Per: _____
Name: Erin Mahoney
Title: Chief Administrative Officer

**KSV RESTRUCTURING INC. in its capacity as Court-
appointed Receiver of
STATEVIEW HOMES (NAO TOWNS II) INC.
(Purchaser)**


Per: _____
Name: Bobby Kofman
Title: President and Managing Director

I have authority to bind KSV Restructuring Inc. KSV Restructuring Inc. has the authority to bind the Original Purchaser.

Appendix “N”

Court File No. CV-23-00698576-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	THURSDAY, THE 14 TH
)	
JUSTICE CAVANAGH)	DAY OF SEPTEMBER, 2023

BETWEEN

KINGSETT MORTGAGE CORPORATION AND DORR CAPITAL CORPORATION

Applicants

- and -

**STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (NAO TOWNS) INC.,
STATEVIEW HOMES (ON THE MARK) INC., TLSFD TAURASI HOLDINGS CORP. AND
STATEVIEW HOMES (HIGH CROWN ESTATES) INC.**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**DISTRIBUTION ORDER
(ON THE MARK)**

THIS MOTION, made by KSV Restructuring Inc. (“**KSV**”) in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of the property, assets and undertakings of each of the above noted Respondents, including their real property, pursuant to the Order (Appointing Receiver) of this Court dated May 2, 2023 (the “**Receivership Order**”) for an order in respect of Stateview Homes (On the Mark) Inc. (“**On the Mark**”), *inter alia*, (i) approving the Second Report of the Receiver dated July 12, 2023 (the “**Second Report**”) and the Third Report of the Receiver dated September 7, 2023 (the “**Third Report**”) and the Receiver’s conduct and activities described therein; (ii) approving the Receiver’s statement of receipts and disbursements attached at Appendix “F” to the Third Report; (iii) approving the fees and disbursements of the Receiver and the Receiver’s counsel, Cassels Brock

& Blackwell LLP (“**Cassels**”), as set out in the Affidavit of Noah Goldstein sworn on September 7, 2023 attached at Appendix “J” to the Third Report (the “**Goldstein Affidavit**”) and the Affidavit of Ryan Jacobs sworn on September 7, 2023 attached at Appendix “K” to the Third Report (the “**Jacobs Affidavit**” and, together with the Goldstein Affidavit, the “**Fee Affidavits**”), respectively; and (iv) authorizing and directing the Receiver to make certain payments and distributions and establish, hold and maintain certain reserves as recommended and described in the Third Report, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Notice of Motion of the Receiver, the Second Report and the Appendices thereto, the Third Report and the Appendices thereto, the Fee Affidavits, and on hearing the submissions of counsel for the Receiver, the Purchaser (as defined below), KingSett Mortgage Corporation (“**KingSett**”), and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service of Alec Hoy sworn September 8, 2023,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement between the Receiver and 2077060 Ontario Inc. (the “**Purchaser**”) dated June 30, 2023 attached at Appendix “D” to the Third Report (the “**APA**”) or the Third Report, as applicable.

APPROVAL OF RECEIVER’S REPORTS, R&D AND FEES AND COSTS

3. **THIS COURT ORDERS** that the Second Report and the Third Report, and the activities of the Receiver described therein are hereby approved; provided that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that the Receiver's statement of receipts and disbursements for the period from May 2, 2023 to August 31, 2023 attached at Appendix "F" to the Third Report is hereby approved.

5. **THIS COURT ORDERS** that, in accordance with paragraph 31(c) of the Receivership Order, the general fees, disbursements and costs incurred by the Receiver and Cassels in connection with this proceeding shall be allocated to each receivership estate in this proceeding on the basis set out in section 10.0 of the Third Report (the "**Allocation Methodology**") and the Receiver shall apply the Allocation Methodology to the allocation of further general fees, disbursements and costs incurred by the Receiver and Cassels in this proceeding.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver from April 12, 2023 to and including August 31, 2023 and those of Cassels from April 21, 2023 to and including August 31, 2023, as described in the Third Report and supported by the Fee Affidavits, are hereby approved and such amounts shall be paid from the proceeds of the Transaction (the "**OTM Purchase Proceeds**").

LIEN CLAIMS RESERVE FUND

7. **THIS COURT ORDERS** that the Receiver is authorized and directed to:

- (a) pay from time to time from the Lien Claims Reserve Fund any amounts in respect of Lien Claims (in aggregate up to the remaining amount held in the Lien Claims Reserve Fund and in each case in full and final satisfaction of the priority portion of such Lien Claim):
 - (i) with the written consent of the Purchaser, KingSett and the applicable holder of the Lien Claim; or
 - (ii) that are determined by Final Order to have priority over the security interest of KingSett against the On the Mark Real Property; and

- (b) on the date that is 180 days following Closing of the Transaction pursuant to the APA, return any balance then held in the Lien Claims Reserve Fund to the Purchaser.

RESERVE FOR OTHER PRIORITY CONSTRUCTION LIEN CLAIMS

8. **THIS COURT ORDERS** that no Assumed Trade Creditor shall be entitled to a payment or distribution from the cash proceeds received by the Receiver from the OTM Purchase Proceeds.

9. **THIS COURT ORDERS** that the Receiver is authorized and directed to establish, hold and maintain a reserve from the OTM Purchase Proceeds in the amount of \$50,000 (the “**Other Construction Lien Reserve**”) on account of the estimated maximum amount in respect of any other claims (collectively, the “**Other Lien Claims**” and each an “**Other Lien Claim**”) that could have priority over the security interest of KingSett against the On the Mark Real Property pursuant to section 78(2) of the *Construction Act*, R.S.O. 1990, c. C.30 (the “**Construction Act**”) and the Receiver is authorized and directed to pay from time to time from the Other Construction Lien Reserve any amounts in respect of Other Lien Claims (in aggregate up to the remaining amount held in the Other Construction Lien Reserve and in each case in full and final satisfaction of the priority portion of such claim) according to:

- (a) any such amounts that the Receiver determines, with the consent of KingSett and the applicable holder of the Other Lien Claim, to have priority over the security interest of KingSett against the On the Mark Real Property pursuant to section 78(2) of the *Construction Act*; or
- (b) further order of this Court.

OTM BANKRUPTCY RESERVE

10. **THIS COURT ORDERS** that the Receiver is authorized and directed to (i) reserve from the OTM Purchase Proceeds the amount of \$75,000 (the “**OTM Bankruptcy Reserve**”) and (ii) use the OTM Bankruptcy Reserve to fund the fees and costs of the bankruptcy of On the Mark in accordance with paragraph 4 of the Bankruptcy Order of this Court dated September 14, 2023 (the “**OTM Bankruptcy Order**”).

OTHER RESERVES

11. **THIS COURT ORDERS** that the Receiver is authorized and directed to establish, hold and maintain reserves from the OTM Purchase Proceeds as follows:

- (a) LIUNA Claims Reserve – in the amount of \$39,139.50 on account of the estimated maximum amount of the LIUNA Claim which could have priority over the security interest of KingSett, which may be paid or distributed as determined by the Receiver with the consent of KingSett and LIUNA or upon further order of this Court;
- (b) Realty Taxes Reserve – in the amount of \$63,000 on account of the estimated maximum amount pre-Closing realty taxes which could have priority over the security interest of KingSett, which may be paid or distributed as determined by the Receiver with the consent of KingSett or upon further order of this Court;
- (c) Professional Costs Reserve – in the amount of \$225,000 on account of additional fees, disbursements and costs of the Receiver and its counsel in connection with On the Mark, which may be paid or distributed upon further order of this Court; and
- (d) General Contingency Reserve – in the amount of \$125,000 on account of general operating costs and fees and other claims which may have priority to the security

interest of KingSett, which may be paid or distributed with the consent of KingSett or upon further order of this Court.

TRANSFER TO TLSFD TAURASI HOLDINGS CORP

12. **THIS COURT ORDERS** that, in accordance with section 8.2 of the Third Report, the Receiver is authorized and directed to pay from the OTM Purchase Proceeds the amount of \$171,949.83 to the receivership estate of TLSFD Taurasi Holdings Corp. to be held by the Receiver in trust to the credit of such estate.

KINGSETT DISTRIBUTION

13. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to distribute the balance of the OTM Purchase Proceeds, after deduction for the payments, distributions and reserves provided for in this Order, to KingSett as partial payment of the KingSett Indebtedness owing by On the Mark to KingSett, which shall be applied by KingSett to reduce such KingSett Indebtedness in accordance with the KingSett Mortgage Loan Security Documents.

GENERAL

14. **THIS COURT ORDERS** that notwithstanding anything else contained in this Order, each of the payments and distributions provided for in this Order shall be made free and clear of all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele in the within proceedings dated May 2, 2023; and (ii) all charges,

security interests, liens, trusts, or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property or real property registry system.

15. **THIS COURT ORDERS** that the Receiver or any other person facilitating payments and distributions pursuant to this Order shall be entitled to deduct and withhold from any such payment or distribution such amounts as may be required to be deducted or withheld under any applicable law and to remit such amounts to the appropriate governmental authority or other person entitled thereto as may be required by such law. To the extent that amounts are so withheld or deducted and remitted to the appropriate governmental authority or other person entitled thereto, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order.

16. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of On the Mark and any bankruptcy order issued pursuant to any such application; and
- (c) any assignment in bankruptcy made in respect of On the Mark;

any payment or distributions made pursuant to this Order are final and irreversible and shall be binding on any trustee in bankruptcy that may be appointed in respect of On the Mark and shall not be void or voidable by creditors of On the Mark, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

17. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

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

19. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.



Digitally signed by
Peter Cavanagh

IN THE MATTER OF THE RECEIVERSHIP OF STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (NAO TOWNS) INC., STATEVIEW HOMES (ON THE MARK) INC., TLSFD TAURASI HOLDINGS CORP. AND STATEVIEW HOMES (HIGH CROWN ESTATES) INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**DISTRIBUTION ORDER
(ON THE MARK)**

CASSELS BROCK & BLACKWELL LLP

Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto, ON M5H 0B4

Ryan Jacobs LSO#: 59510J

Tel: 416.860.6465
rjacobs@cassels.com

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jbellissimo@cassels.com

Alec Hoy LSO#: 85489K

Tel: 416.860.2976
ahoy@cassels.com

Lawyers for the Receiver (NAO Phase 1, Minu, On the Mark,
High Crown and Taurasi Holdings Receiverships)

Appendix “O”

COURT FILE NO.: CV-23-00698395-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL
CORPORATION

APPLICANT

- AND -

STATEVIEW HOMES (NAO TOWNS II) INC.

RESPONDENTS

AFFIDAVIT OF ROBERT KOFMAN
(Sworn February 7, 2024)

I, Robert Kofman, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am the President of KSV Restructuring Inc. ("KSV").
2. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) ("Court") made on May 2, 2023 ("Order"), KSV was appointed as receiver and manager (the "Receiver") of the property, assets and undertaking of Stateview Homes (Nao Towns II) Inc. ("Nao II"), including its real property.
3. I have been involved in the management of this mandate since the proceedings commenced. As such, I have knowledge of the matters to which I hereinafter depose.
4. On February 7, 2024, the Receiver issued its Seventh Report to Court in which it outlined its activities with respect to Nao II and provided information with respect to its fees.

5. I hereby confirm that attached as Exhibit "A" hereto are true copies of the accounts of KSV for the periods indicated and confirm that these accounts accurately reflect the services provided by KSV with respect to Nao II and the fees and disbursements claimed by it.

6. Additionally, attached hereto as Exhibit "B" is a summary of additional information with respect to all members of KSV who have worked on this matter, including their hours and rates, and I hereby confirm that the list represents an accurate account of such information.

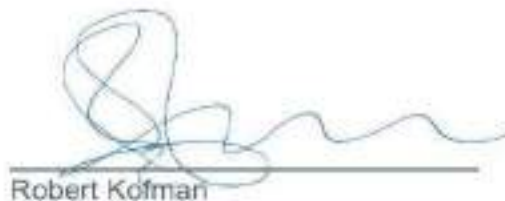
7. I consider the accounts to be fair and reasonable considering the circumstances connected with this administration.

8. I also confirm that the Receiver has not received, nor expects to receive, nor has the Receiver been promised any remuneration or consideration other than the amount claimed in the accounts.

SWORN BEFORE ME at the City of
Toronto, on February 7, 2024.



Catherine Anne Stuyck-Therault,
a Commissioner, etc., Province of Ontario,
for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025



Robert Kofman

This is Exhibit "A" referred to in the
Affidavit of Bobby Kofman
sworn before me, this 7th day of February 5, 2024



.....
Catherine Anne Stuyck-Therault, a Commissioner, etc.,
Province of Ontario, for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025



INVOICE

Stateview Homes (Nao Towns II) Inc.
c/o KSV Restructuring Inc.
220 Bay Street, Suite 1300
Toronto, ON M5J 2W4

February 6, 2024

Invoice No: 3473
HST #: 818808768RT0001

Re: Stateview Homes (Nao Towns II) Inc. ("NAO II")

For professional services rendered by KSV Restructuring Inc. for the period April 12, 2023 to January 31, 2024 in its capacity as receiver and manager (the "Receiver") of NAO II, including its real property (the "Nao II Real Property") and all other property, assets and undertaking of Nao II, pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") issued on May 2, 2023 (the "Receivership Order"), including:

All Receivership Companies¹**Background and General**

- Corresponding extensively with (i) Pallare Roland Rosenberg Rothstein LLP ("Pallare Roland"), the Receiver's counsel in respect of NAO II, Stateview Homes (BEA Towns) Inc., Highview Building Corp Inc. and Stateview Homes (Elm & Co) Inc.; and (ii) Cassels Brock & Blackwell LLP ("Cassels"), the Receiver's counsel in respect of Stateview Homes (Minu Towns) Inc., Stateview Homes (Nao Towns) Inc., Stateview Homes (On the Mark) Inc., TLSFD Taurasi Holdings Corp. and Stateview Homes (High Crown Estates) Inc. (the entities subject to the receivership are listed on Appendix "A" and are herein collectively referred to as the "Companies");
- Corresponding with Dorr Capital Corporation ("Dorr") (on behalf of various mortgagees), KingSett Mortgage Corporation ("KingSett"), Atrium Mortgage Corporation ("Atrium"), and Meridian Credit Union Limited ("Meridian" and collectively with Atrium, Dorr, Kingsett and certain other mortgagees, the "Mortgagees") regarding the commencement of these receivership proceedings;
- Corresponding with Bennett Jones LLP ("Bennett Jones"), KingSett's counsel, Blaney McMurtry LLP ("Blaney"), Dorr's counsel, Chaitons LLP ("Chaitons"), Atrium's counsel, and Fogler Rubinoff LLP ("Fogler"), Meridian's counsel, regarding the receivership proceedings;

¹ The activities described in this section are in respect of all of the Companies, unless specifically noted. These costs have been split evenly amongst all receivership companies, where possible.

- Preparing for the Companies' receivership proceedings, including reviewing information regarding the status of each of the Companies' development projects and performing online searches regarding each of the Companies;
- Attending at the head office of the Stateview Group of Companies (the "Stateview Group") located at 410 Chrislea Road, Woodbridge, Ontario, including on May 4, 5, 8, 9, 10, 11 and 15, 2023 to, among other things, meet with Carlo Taurasi and Dino Taurasi (together, the "Taurasis"), the principals of the Stateview Group, Norton Rose Fulbright LLP ("Norton Rose"), counsel to the Companies, and BDO Canada Limited ("BDO"), the court appointed information officer for the Stateview Group;
- Corresponding with BDO to, among other things, obtain the Companies' books and records, including financial information pertaining to the real properties owned by the Companies, as listed on Appendix "B" (each a "Real Property" and collectively, the "Real Properties") and information regarding the Companies' pre-receivership transactions;
- Corresponding with the Mortgagees to obtain information relating to the development status of the Real Properties;
- Corresponding with FAAN Advisors Group Inc. ("FAAN"), the Companies' financial advisor, to obtain financial and other information pertaining to the Companies, including general ledgers, trial balances and accounts payables information;
- Reviewing financial and other information related to the Companies, including, among other things, the:
 - Real Properties' development status;
 - most recent trial balances;
 - most recent bank statements;
 - title searches;
 - insurance policies; and
 - real estate appraisals;
- Engaging Tert & Ross Inc. ("T&R"), a third-party contractor, to perform site visits and to secure and monitor the Real Properties;
- Corresponding extensively with T&R to secure and safeguard the Real Properties;
- Reviewing reports from T&R regarding site conditions and security matters;
- Corresponding with Kroll Consulting Canada Co. to image the Companies' electronic records and the Taurasis' cell phones;
- Corresponding with Cassels and Paliare Roland regarding a protocol to address the imaging of the Companies' electronic records and the Taurasis' cell phones (the "IT Protocol");
- Opening estate bank accounts for each of the Companies;
- Corresponding with Bank of Montreal ("BMO") regarding the Companies' banking and requesting that the Companies' balances be transferred to the Receiver's accounts;
- Corresponding with Norton Rose, BDO and the Taurasis regarding the Companies' cash balances, including their sources and uses of cash;

- Corresponding extensively with Masters Insurance Limited ("Masters Insurance"), the Companies' insurance broker, to obtain copies of the insurance policies and to request that the Receiver be added as a named insured and loss payee on the policies;
- Corresponding extensively with Masters Insurance regarding the renewal and extension of certain of the insurance policies;
- Corresponding with Cassels regarding the insurance policies and reviewing a summary prepared by Cassels regarding same;
- Corresponding with Canada Revenue Agency ("CRA") regarding the Companies' HST accounts and opening new HST accounts for the receivership proceedings;
- Corresponding with CRA regarding the status of the Companies' HST accounts;
- Filing the Companies' monthly HST returns through December 2023;

Court Matters

- Attending a receivership scheduling hearing on April 28, 2023;
- Reviewing and commenting on application materials filed by the Mortgagees regarding the appointment of a receiver;
- Reviewing the Receivership Orders and the corresponding Endorsements issued by the Court;
- Reviewing materials filed with the Court in connection with a motion filed by the Receiver returnable on June 5, 2023 (the "Sale Process Motion"), including:
 - the Notice of Motion of the Receiver; and
 - the draft Orders;
- Preparing the Receiver's First Report to Court dated May 30, 2023 (the "First Report");
- Corresponding extensively with Paliare Roland and Cassels regarding the First Report and the Sale Process Motion;
- Reviewing materials filed with the Court in connection with a motion filed by Tarion Warranty Corporation ("Tarion") returnable on November 2, 2023 (the "Tarion Motion"), including:
 - the motion record and factum of Tarion; and
 - the responding factum and affidavit of Kingsett;
- Preparing the Receiver's Fifth Report to Court dated October 2, 2023 in connection with the Tarion Motion (the "Fifth Report");
- Reviewing responding materials filed in Court by the Mortgagees in connection with the Tarion Motion, including the affidavit of Daniel Pollack, a representative of Kingsett;
- Corresponding extensively with Paliare Roland and Cassels regarding the Fifth Report;

- Preparing project-related information for Cassels with respect to the Tarion Motion;
- Attending at the Tarion Motion on November 2, 2023;
- Reviewing the decision of the Court dated December 22, 2023 in respect of the Tarion Motion;

Class Action Claim

- Reviewing a copy of a Statement of Claim issued on September 28, 2023 by Dharmi Mehta (as proposed representative plaintiff on behalf of a proposed class of homebuyers) commencing a proposed class action against certain of the Stateview Receivership Companies, including NAO II, and other individuals (the "Proposed Class Action");
- Corresponding with Cassels and Pafiare Roland regarding the Proposed Class Action;
- Reviewing and commenting on correspondence between Cassels and counsel in the Proposed Class Action;

Request For Proposals from Realtors

- Requesting proposals from commercial real estate brokerage firms (the "Brokers") to list the Real Properties for sale ("RFP");
- Corresponding with each of the Brokers regarding the receivership proceedings and the RFP process;
- Preparing an RFP package for each of the Brokers, including a confidentiality agreement;
- Preparing a virtual data room with information regarding the Real Properties including drawings, designs, development applications, environmental reports and correspondence with municipalities for the purposes of providing the Brokers with information to perform due diligence;
- Corresponding and attending calls with the Brokers to assist with their diligence;
- Reviewing the proposals submitted by the Brokers and considering their approaches to each of the Real Properties;
- Preparing a summary of the proposals and discussing same with the applicable Mortgagees;
- Attending calls and meetings with each of the Brokers and the applicable Mortgagee regarding the proposal;
- Preparing follow-up questions for each of the realtors regarding their proposals;
- Negotiating listing agreements with the realtors selected to market the Real Properties, and corresponding with Pafiare Roland and Cassels regarding the same;

Homebuyer Matters²

- Attending calls and corresponding by email with numerous homebuyers of the Companies on a near daily basis;
- Preparing a Notice to Homebuyers dated May 5, 2023, advising homebuyers of the receivership proceedings and to advise of Tarion's warranty coverage;
- Preparing a Notice to Homebuyers dated May 31, 2023, advising of the Sale Process Motion;
- Preparing a Notice to Homebuyers dated June 13, 2023 advising of the Sale Process Order;
- Corresponding with Cassels and Paliare regarding a further homebuyer notice;
- Corresponding with and considering comments from Cassels and/or Paliare Roland on the notices;
- Corresponding with Torys LLP, counsel to Tarion, regarding the receivership proceedings, the status of the Real Properties, Tarion's warranty coverage and homebuyer deposits;
- Reviewing the Companies' information concerning homebuyer deposits;
- Corresponding with Norton Rose regarding the status of the homebuyer deposits;
- Corresponding and communicating with homebuyers extensively throughout these proceedings;

NAO II³

NAO II Real Property

- Retaining KLM Planning Partners Inc. ("KLM"), an urban planner, to prepare a planning letter regarding the status of the NAO II Real Property (the "KLM Letter") and discussing same with Dorr;
- Reviewing a draft of the KLM Letter and corresponding with Cushman & Wakefield ULC ("Cushman"), the broker retained to market the NAO II Real Property for sale, and KLM regarding same;
- Attending calls with Stateview Group employees to obtain information regarding the development status of the NAO II Real Property;
- Retaining Arcadis Professional Services (Canada) Inc. ("Arcadis"), an environmental consultant, to prepare a phase one and limited phase two environmental site assessment of the NAO II Real Property (the "ESAs");
- Reviewing the ESAs and corresponding with Cushman regarding same;

² The activities described in this section do not pertain to TLSFD Taurasi Holdings Corp. as it does not have any homebuyers.

³ The activities described in the below sections relate specifically to NAO II. Unless otherwise noted, substantially all of the activities described in the above sections also relate to NAO II, and, accordingly, are not repeated in the sections below.

NAO II Sale Process

- Corresponding extensively with Cushman regarding all aspects of the sale process for the NAO II Real Property (the "NAO II Sale Process");
- Preparing a non-disclosure agreement ("NDA") for prospective purchasers to sign to access a virtual data room prepared by Cushman ("VDR");
- Reviewing the VDR and marketing materials prepared by Cushman including a teaser and offering memorandum;
- Preparing a template form of agreement of purchase and sale for prospective purchasers and making same available in the VDR;
- Corresponding extensively with the mortgagees, including Dorr and Atrium (the "NAO II Mortgagees") regarding the status of the NAO II Sale Process and to review offers and opportunities for the NAO II Real Property;
- Attending numerous update and status calls with certain of the NAO II Mortgagees and Cushman;
- Speaking with certain NAO II Mortgagees throughout the NAO II Sale Process;
- Reviewing numerous offers submitted for the NAO II Real Property and discussing same with Cushman and the NAO II Mortgagees;
- Corresponding with certain NAO II Mortgagees regarding the Sale Process and transaction options for the NAO II Real Property;
- Corresponding with Cushman concerning several prospective transactions and opportunities, including a conditional offer executed on August 24, 2023 from a potential purchaser ("First Potential Purchaser");
- Discussing the offer from the Potential Purchaser with certain NAO II Mortgages;
- Dealing with the termination of the offer from the First Potential Purchaser;
- Corresponding with Cushman regarding a conditional offer received on November 2, 2023 from 1000707996 Ontario Inc. ("the Purchaser");
- Discussing the offer from the Purchaser with certain NAO II Mortgages;
- Reviewing and commenting on several amendments to the Purchaser's offer;
- Considering the Tarion motion in the context of the offer from the Purchaser and negotiating amendments to the Purchaser's offer to address same;
- Discussing the Purchaser's offer with its counsel;
- Reviewing and commenting on the waiver and amendment to the Purchaser's offer;
- Executing the APS;
- Starting to draft the Receiver's 7th report to Court regarding the transaction with the Purchaser;

Land Purchaser from York Region

- Reviewing an agreement of purchase and sale dated December 14, 2022 between NAO II and Regional Municipality of York (the "York Region") and the first amendment dated March 13, 2023 (the "York Region APS");
- Corresponding with the York Region regarding the York Region APS and the terms of a further amendment and corresponding with Pallare and certain NAO II Mortgagees regarding same;
- Reviewing and executing a second amendment to the York Region APS dated May 31, 2023 and a notice to the York Region dated October 11, 2023;
- Reviewing and executing a third amendment to the York Region APS dated December 19, 2023;

Other Matters

- Responding to numerous inquiries from creditors and interested parties regarding the Companies;
- Maintaining the receivership case website;
- Preparing Notices and Statements of the Receiver (the "Notices") for each of the Companies pursuant to Subsections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act*;
- Corresponding with the Companies, BDO and FAAN to obtain the Companies' payables listing for the Notices;
- Reviewing the Companies' payables listings;
- Paying all vendors who provided services during these receivership proceedings;
- Arranging for funding from Dorr under the Receiver's Certificate and issuing same;
- Convening internal meetings; and
- To all other meetings, correspondence, etc. related to this matter.

Total fees and disbursements	\$	98,395.05
HST		<u>12,791.36</u>
Total due	\$	<u>111,186.41</u>

KSV Restructuring Inc.
Stateview Homes (Nao Towns II) Inc.
Time Summary
For the Period Ending January 31, 2024

Personnel	Rate (\$)*	Hours	Amount (\$)
Robert Kofman	800-850	76.37	61,385.93
Jordan Wong	525-550	30.62	16,129.13
Murtaza Tallat	525	17.88	9,384.38
Nikita Gupta	325	15.90	5,167.50
Other Staff and Administration		23.19	5,767.82
Total Fees		163.95	97,834.74
Add: Out of Pocket Disbursements			
Mileage			74.58
Meals			55.47
Photocopy			78.09
Ascend Fee			275.00
Postage			30.89
Courier			46.29
Out of pocket disbursements			560.30
Total Fees and Disbursements			98,395.05

*KSV Restructuring Inc. increased its hourly rates effective January 1, 2024.

Appendix "A"

1. Stateview Homes (Minu Towns) Inc.
2. Stateview Homes (Nao Towns) Inc.
3. Stateview Homes (Nao Towns II) Inc.
4. Stateview Homes (On the Mark) Inc.
5. TLSFD Taurasi Holdings Corp.
6. Stateview Homes (High Crown Estates) Inc.
7. Highview Building Corp Inc.
8. Stateview Homes (BEA Towns) Inc.
9. Stateview Homes (Elm & Co) Inc.

Appendix "B"

1. Minu Towns – 9940 Ninth Line, Markham
2. Nao Towns – 5112, 5122, 5248 14th Avenue, Markham
3. Nao Towns II – 7810, 7822, 7834, 7846 McCowan Road, Markham
4. Nashville/Highview – 89, 99 Nashville Road, Kleinberg
5. BEA Towns – 189 Summerset Drive, Barrie
6. ELM – 12942 York Durham Line, Stouffville
7. High Crown Estates – 13151-13161 Keele Street, King City
8. On the Mark – 16th Avenue and Woodbine Avenue, Markham
9. TLSFD - 301 Bradwick Drive, Concord, ON L4K 1K5
10. TLSFD - 596 Oster Lane, Concord, ON L4K 2C1
11. TLSFD - 448 North Rivermede Road, Concord, ON L4K 3M9
12. TLSFD - 6-8 Bradwick Drive, Concord, ON L4K 2T3

This is Exhibit "B" referred to in the
Affidavit of Bobby Kofman
sworn before me, this 7th day of February 5, 2024



.....
Catherine Anne Stuyck-Therault, a Commissioner, etc.,
Province of Ontario, for KSV Advisory Inc. and KSV Restructuring Inc.
Expires February 19, 2025

Stateview Homes (Nao Towns II) Inc.

Exhibit "B"

Time Summary

For the Period of April 12, 2023 to January 31, 2024

<u>Name</u>	<u>Hours</u>	<u>Hourly Rate (\$)</u>	<u>Total (\$)</u>
Robert Kofman	76.37	800-850	61,385.93
Jordan Wong	30.62	525-550	16,129.13
Murtaza Tallat	17.88	525	9,384.38
Nikita Gupta	15.90	325	5,167.50
Other staff and administrative	23.19		5,767.82
	<u>163.95</u>		<u>97,834.74</u>
Average hourly rate			<u>596.73</u>

Appendix “P”

Court File No. CV-23-00698395-00CL

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

B E T W E E N:

**ATRIUM MORTGAGE INVESTMENT CORPORATION and DORR CAPITAL
CORPORATION**

Plaintiffs

- and -

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI and CARLO TAURASI

Defendants

**AFFIDAVIT OF BEATRICE LOSCHIAVO
(Sworn February 5, 2024)**

I, Beatrice Loschiavo, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

1. I am an assistant at the law firm of Paliare Roland Rosenberg Rothstein LLP (“**Paliare Roland**”). I have personal knowledge of the matters to which I hereinafter refer.
2. Pursuant to the order of the Honourable Court dated May 2, 2023 (the “**Appointment Order**”), KSV Restructuring Inc. was appointed as receiver and manager (the “**Receiver**”) without security, of all the assets, undertakings and properties of Stateview Homes (NAO Towns II) Inc.
3. Paliare Roland has provided legal services to and incurred disbursements on behalf of the Receiver. The detailed invoices attached hereto and marked as **Exhibit “A”** are dockets (the “**Dockets**”) which set out Paliare Roland’s fees and disbursements from April 24, 2023 to January 31, 2024. The Dockets describe the services provided and the amounts charged by Paliare Roland.
4. The following is a summary of the professionals whose services are reflected in the Dockets, including hourly rates, fees billed, hours billed and the average hourly rate

charged by Paliare Roland. The hourly rates charged are the usual hourly rates charged by Paliare Roland for the listed professionals.

Professional	Hourly Rate	Hours Billed	Fees Billed
Jeffrey Larry	\$913.70	61.15	\$55,605.00
Daniel Rosenbluth	\$615	8.00	\$5,444.75
Paul Davis	\$750	0.50	\$375.00
Janet Song	\$450	1.90	\$855.00
Deanna Watters	\$275	1.10	\$385.00
Meredith Francis	\$275	4.45	\$1,223.75
Subtotal		77.1	\$63,888.50

5. Inclusive of HST and disbursements, the total amount of the Dockets is **\$71,770.71**.

SWORN remotely by Beatrice Loschiavo at)
the City of Toronto, in the Province of)
Ontario before me, on this 5th day of)
February 2024 in accordance with O. Reg.)
431/20, Administering Oath or Declaration)
Remotely)

A Commissioner for taking Affidavits

Daniel Rosenbluth 71044U

BEATRICE LOSCHIAVO

This is **Exhibit "A"**
Referred to in the Affidavit of Beatrice Loschiavo
Affirmed remotely before me this 5th day of February 2024

A handwritten signature in red ink, consisting of a large, stylized initial 'A' followed by a series of loops and a long horizontal stroke extending to the right.

A Commissioner for Taking Affidavits (or as may be)



35th Floor
155 Wellington St. West
Toronto, Ontario M5V 3H1
Canada

416.646.4300
paliareroland.com

Private and Confidential
KSV Restructuring Inc.
150 King Street West, Suite 2308
Toronto, Ontario M5H 1J9

May 31, 2023
Invoice No.: 119643
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending May 31, 2023:

OUR FEES	\$ 12,606.00
Total HST	<u>1,638.78</u>
INVOICE TOTAL	<u><u>\$ 14,244.78</u></u>

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Per:

A handwritten signature in blue ink, appearing to read "Jeffrey Larry", written over a horizontal line.

Jeffrey Larry



35th Floor
155 Wellington St. West
Toronto, Ontario M5V 3H1
Canada

416.646.4300
paliareroland.com

Private and Confidential
KSV Restructuring Inc.
150 King Street West, Suite 2308
Toronto, Ontario M5H 1J9

May 31, 2023
Invoice No.: 119643
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending May 31, 2023:

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
24/04/23	JL	Review materials; call with B. Kofman;	900.00	0.10	90.00
27/04/23	JL	Review materials; prepare for case conference; correspondence with B. Kofman;	900.00	0.70	630.00
28/04/23	JL	Various calls; review email correspondence; review proposal; attend at court;	900.00	0.70	630.00
01/05/23	JL	Correspondence with KSV; correspondence with Cassels; internal discussion re organizing file; review draft Order;	900.00	0.20	180.00
02/05/23	JL	Prepare for and attend at court; discussions with counsel; email correspondence;	900.00	0.20	180.00
03/05/23	JL	Correspondence and organize files;	900.00	0.20	180.00
10/05/23	DR	Review liens received from C. Janssen; drafting correspondence re same; emails with J. Larry and revisions to letter; correspondence to counsel on	615.00	0.50	307.50

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
		separate lien claim re service of statement of claim;			
11/05/23	JL	Call to discuss correspondence and strategy; internal discussions; drafting letters to counsel re: lien claims; draft letter to BDO;	900.00	1.00	900.00
11/05/23	DR	Meeting with receiver and counsel group; draft letter re Tarion request;	615.00	0.40	246.00
12/05/23	JL	Further revisions to letter to BDO; email correspondence;	900.00	0.10	90.00
16/05/23	JL	Review and consider issues re purchase of land;	900.00	0.20	180.00
16/05/23	JL	Various issues re: sales process and upcoming motion;	900.00	0.10	90.00
17/05/23	JL	Discussions with J. Stam; correspondence; internal discussions; discussion re: imaging protocol; discussions re: sales process;	900.00	0.50	450.00
17/05/23	DW	Instructions from J. Larry; conduct title searches;	275.00	0.30	82.50
18/05/23	JL	Various steps re co-ordination service lists; call with D. Rosenbluth; email correspondence;	900.00	0.40	360.00
19/05/23	JL	Consider issues re sales procedure order; call with Cassels Brock; email correspondence with D. Rosenbluth;	900.00	0.20	180.00
23/05/23	JL	Discussion with D. Rosenbluth;	900.00	0.10	90.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
24/05/23	JL	Call with counsel re protocol for preserving and imaging documents; email correspondence with counsel; internal discussions;	900.00	0.50	450.00
25/05/23	JL	Correspondence with counsel; call with B. Kofman;	900.00	0.20	180.00
25/05/23	JL	Call with N. Goldstein and B. Kofman; discussion re motion; correspondence with A. Parley; issues re drafting Notice of Motion and Orders;	900.00	0.60	540.00
26/05/23	JL	Calls with BLG re extension; call with B. Kofman re extension agreement;	900.00	0.40	360.00
26/05/23	JL	Call with A. Parley; review correspondence relating to imaging protocol; correspondence with KSV re imaging protocol; review and comment on draft report;	900.00	0.70	630.00
27/05/23	JL	Call with B. Kofman; call with J. Bellissimo; call with D. Rosenbluth; revise Report; drafting new section in report;	900.00	0.40	360.00
28/05/23	JL	Correspondence with KSV and Cassels; revise Order and Notice of Motion;	900.00	0.30	270.00
29/05/23	JL	Calls with BLG; discussions with B. Kofman re: extension agreement; consider issues;	900.00	0.20	180.00
29/05/23	JL	Review and comment on draft extension agreement;	900.00	0.50	450.00
29/05/23	JL	Calls with counsel; calls with B. Kofman; revisions to report, Notice of Motion and Order; calls re imaging protocol with	900.00	2.40	2,160.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
		A. Parley and J. Stam; revise protocol; calls with J. Bellissimo; discussions with D. Rosenbluth re: process and factum relating to imaging protocol;			
29/05/23	JL	Further revisions to report; further discussions with A. Parley and J. Stam; correspondence to client;	900.00	0.30	270.00
30/05/23	JL	Revisions to Amending Agreement; correspondence with mortgagees and Receiver;	900.00	0.50	450.00
30/05/23	JL	Further revisions to report; correspondence with counsel re imaging protocol; call with J. Bellissimo;	900.00	1.00	900.00
31/05/23	JL	Review revised Amending Agreement; call with counsel; correspondence with KSV and mortgagees; co-ordinate signing of Amending Agreement;	900.00	0.50	450.00
31/05/23	JL	Discussions with Cassels; review Listing Agreement; call with D. Rosenbluth;	900.00	0.10	90.00

TIME SUMMARY

MEMBER	HOURS	RATE	VALUE
Watters, Deanna (DW)	0.30	275.00	82.50
Larry, Jeffrey (JL)	13.30	900.00	11,970.00
Rosenbluth, Daniel (DR)	0.90	615.00	553.50
	<u>14.50</u>		

OUR FEES \$ 12,606.00
 HST at 13% 1,638.78

INVOICE TOTAL \$ 14,244.78



35th Floor
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May 31, 2023
Invoice No.: 119643
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

**REMITTANCE COPY
PLEASE REMIT WITH PAYMENT**

OUR FEES	\$ 12,606.00
Total HST	<u>1,638.78</u>
INVOICE TOTAL	<u><u>\$ 14,244.78</u></u>



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 Toronto, Ontario M5H 1J9

June 30, 2023
 Invoice No.: 120312
 Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending June 30, 2023:

OUR FEES	\$ 3,561.00
Total HST	<u>462.93</u>
INVOICE TOTAL	<u><u>\$ 4,023.93</u></u>

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Per:

A handwritten signature in blue ink, appearing to read 'J. Larry', positioned above a horizontal line.

Jeffrey Larry



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Toronto, Ontario M5V 3H1
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KSV Restructuring Inc.
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Toronto, Ontario M5H 1J9

June 30, 2023
Invoice No.: 120312
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending June 30, 2023:

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
29/05/23	DR	Preparing draft orders for sales process and imaging motion;	615.00	0.20	123.00
01/06/23	JL	Call with D. Rosenbluth; call with Cassels; organize and prepare for hearing; correspondence with KSV; review draft factum;	900.00	0.50	450.00
01/06/23	DR	Conference call with Cassels re motion hearing prep; review and revise draft factum on sale process motion;	615.00	0.20	123.00
02/06/23	JL	Discussions re preparation for sales procedure motion;	900.00	0.20	180.00
02/06/23	DR	Finalizing draft orders for sales approval motion;	615.00	0.10	61.50
05/06/23	JL	Prepare for and attend at court for approval of sales process;	900.00	0.60	540.00
05/06/23	DR	Revisions to draft orders; attending motion hearing re sales process;	615.00	0.30	184.50
09/06/23	JL	Correspondence re arrangements for imaging devices;	900.00	0.10	90.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
11/06/23	JL	Various correspondence; attend to issues re imaging devices;	900.00	0.10	90.00
11/06/23	DR	Review inquiry from counsel to homebuyer and preparing draft response re same;	615.00	0.20	123.00
12/06/23	JL	Various issues re dealing with counsel; review notice to homebuyers; consider issues re homebuyers' deposits;	900.00	0.10	90.00
14/06/23	DR	Review proposed listing agreements from realtors and emails with B. Kofman re same;	615.00	0.20	123.00
19/06/23	JL	Correspondence internally and discussions re next steps and process;	900.00	0.10	90.00
20/06/23	JL	Prepare for and participate on call with Tarion and counsel; correspondence with KSV; review letter from HCRA; draft letter to HCRA;	900.00	0.60	540.00
23/06/23	JL	Various matters including correspondence and discussions with D. Rosenbluth;	900.00	0.10	90.00
26/06/23	JL	Correspondence re Tarion; correspondence with B. Kofman; internal discussions;	900.00	0.10	90.00
27/06/23	JL	Consider issues related to Tarion claim; call with D. Rosenbluth; call with A. Merskey and D. Rosenbluth;	900.00	0.20	180.00
27/06/23	DR	Discuss Tarion issues with J. Larry; attend meeting with A. Merskey re same;	615.00	0.10	61.50

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
30/06/23	JL	Prepare for and attend call re Tarion; discussion with D. Rosenbluth; discussion with B. Kofman; correspondence with A. Merskey;	900.00	0.30	270.00
30/06/23	DR	Attending meeting with counsel re Tarion issues;	615.00	0.10	61.50

TIME SUMMARY

MEMBER	HOURS	RATE	VALUE
Larry, Jeffrey (JL)	3.00	900.00	2,700.00
Rosenbluth, Daniel (DR)	1.40	615.00	861.00
	<u>4.40</u>		
OUR FEES			\$ 3,561.00
HST at 13%			462.93
INVOICE TOTAL			<u><u>\$ 4,023.93</u></u>



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June 30, 2023
Invoice No.: 120312
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

**REMITTANCE COPY
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OUR FEES	\$ 3,561.00
Total HST	<u>462.93</u>
INVOICE TOTAL	<u><u>\$ 4,023.93</u></u>



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 150 King Street West, Suite 2308
 Toronto, Ontario M5H 1J9

August 31, 2023
 Invoice No.: 121437
 Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending August 31, 2023:

OUR FEES	\$ 4,187.75
Total HST	<u>544.41</u>
INVOICE TOTAL	<u><u>\$ 4,732.16</u></u>

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Per: _____
 Jeffrey Larry



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Toronto, Ontario M5H 1J9

August 31, 2023
Invoice No.: 121437
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending August 31, 2023:

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
04/07/23	MF	Telephone call with Jeff Larry re instructions for information to be included in various agreements of purchase and sale; update APS (X4) with relevant information from title searches; reporting emails to J. Larry;	275.00	1.20	330.00
04/07/23	JL	Drafting Agreements of Purchase and Sale; drafting Approval and Vesting Orders;	900.00	0.80	720.00
04/07/23	DR	Meet with J. Larry re form of APSes for sale process;	615.00	0.10	61.50
05/07/23	MF	Emails from/to Jeff Larry; order numerous corporate searches, as requested;	275.00	0.50	137.50
06/07/23	MF	Update agreements of purchase and sale with relevant information from updated title searches; reporting emails to J. Larry;	275.00	0.25	68.75
07/07/23	MF	Emails from/to Jeff Larry; update and revise agreements of purchase and sale with relevant information from counsel, and as instructed;	275.00	0.80	220.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
07/07/23	JL	Further revisions to agreement of purchase and sale;	900.00	0.30	270.00
11/07/23	JL	Consider and respond to email from S. Thom re trust claim;	900.00	0.20	180.00
13/07/23	JL	Review and consider proposal re Tarion stated case; discuss issues internally;	900.00	0.30	270.00
14/07/23	JL	Correspondence re stated case; review and consider issues; internal discussions;	900.00	0.10	90.00
01/08/23	JL	Prepare for and attend on motion; discussions with D. Rosenbluth;	900.00	0.20	180.00
21/08/23	JL	Review agreement; correspondence;	900.00	0.40	360.00
21/08/23	DR	Call with F. Schumann, counsel to interested party re status of sales process;	615.00	0.20	123.00
22/08/23	DR	Emails with counsel to interested party re sales process;	615.00	0.10	61.50
23/08/23	JL	Review and consider memorandum re Tarion claims; discussion with D. Rosenbluth;	900.00	0.20	180.00
24/08/23	JL	Email correspondence; review APS and consider issues;	900.00	0.30	270.00
25/08/23	DR	Review draft legal memo from Cassels; discuss same with J. Larry; emails with Cassels re revisions to memo;	615.00	0.20	123.00
28/08/23	JL	Review and consider Tarion affidavit;	900.00	0.15	135.00

Invoice No.: 121437
 Our File No.: 38004-101235
 Page No.: 3

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
30/08/23	MF	Review of email instructions from J. Larry; ordering updated and full parcel registers as per instructions, reporting emails to Mr. Larry;	275.00	0.50	137.50
30/08/23	JL	Review and consider Tarion issues and affidavit; correspondence with B. Kofman re: Tarion issues;	900.00	0.30	270.00

TIME SUMMARY

MEMBER	HOURS	RATE	VALUE
Francis, Meredith (MF)	3.25	275.00	893.75
Larry, Jeffrey (JL)	3.25	900.00	2,925.00
Rosenbluth, Daniel (DR)	0.60	615.00	369.00
	<u>7.10</u>		

OUR FEES	\$ 4,187.75
HST at 13%	544.41

INVOICE TOTAL	\$ 4,732.16
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August 31, 2023
Invoice No.: 121437
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

**REMITTANCE COPY
PLEASE REMIT WITH PAYMENT**

OUR FEES	\$ 4,187.75
Total HST	<u>544.41</u>
INVOICE TOTAL	<u><u>\$ 4,732.16</u></u>



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 Toronto, Ontario M5H 1J9

January 31, 2024
 Invoice No.: 124610
 Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending January 31, 2024:

OUR FEES	\$ 43,009.00
Total Disbursements subject to HST	150.15
Total HST	<u>5,610.69</u>
INVOICE TOTAL	<u><u>\$ 48,769.84</u></u>

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Per:

A handwritten signature in blue ink, appearing to read "Jeffrey Larry".

Jeffrey Larry



35th Floor
155 Wellington St. West
Toronto, Ontario M5V 3H1
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KSV Restructuring Inc.
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Toronto, Ontario M5H 1J9

January 31, 2024
Invoice No.: 124610
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

FOR PROFESSIONAL SERVICES RENDERED on this matter for the period ending January 31, 2024:

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
19/09/23	JL	Review correspondence from G. Hall; correspondence with Cassels;	900.00	0.10	90.00
21/09/23	JL	Review and respond to correspondence re Tarion issue and motion;	900.00	0.10	90.00
25/09/23	JL	Review Fifth Report;	900.00	0.10	90.00
26/09/23	JL	Revisions to draft report; correspondence;	900.00	0.40	360.00
27/09/23	JL	Revisions to draft report on Tarion Motion; correspondence with KSV; discussion with D. Rosenbluth;	900.00	1.20	1,080.00
28/09/23	MF	Emails from D. Watters and J. Larry re tax certificate; review of various avenues for obtaining tax certificate and process for same; telephone call to City of Barrie (no answer) and instructions re obtaining request information and costs; reply email to J. Larry;	275.00	0.40	110.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
28/09/23	JL	Further revisions to report; call with A. Merskey; correspondence with B. Kofman;	900.00	0.80	720.00
29/09/23	PJD	Meeting with J. Larry re background to proceedings; preliminary review of class action statement of claim; reviewing background documents;	750.00	0.30	225.00
29/09/23	MF	Request MPAC report and tax certificate online; calculate estimated yearly taxes on property; numerous emails with J. Larry and ESC; telephone call with J. Larry;	275.00	0.80	220.00
29/09/23	JL	Review and comment on report; call with B. Kofman; consider class action issues; discussion with P. Davis;	900.00	0.80	720.00
01/10/23	PJD	Detailed review of Tarion motion record and class action claim; analyzing law re same; telephone call with J. Larry re same;	750.00	0.10	75.00
01/10/23	JL	Review and consider issues re: class action claim; call with B. Kofman; correspondence with P. Davis;	900.00	0.20	180.00
02/10/23	JL	Review and consider issues re class action claim; call with KSV and Cassels; internal discussions;	900.00	0.40	360.00
03/10/23	JL	Review and consider issues re extending the Amending Agreement;	900.00	0.20	180.00
05/10/23	JL	Various issues re extending closing; correspondence with agents and counsel;	900.00	0.60	540.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
05/10/23	JL	Various issues re Tarion motion; discussions with D. Rosenbluth;	900.00	0.20	180.00
06/10/23	PJD	Teleconference with Tarion counsel re response to class action;	750.00	0.10	75.00
06/10/23	JL	Correspondence with counsel re extension; correspondence and call with broker;	900.00	0.40	360.00
06/10/23	JL	Prepare for and attend conference call re Tarion and related issues;	900.00	0.20	180.00
10/10/23	JL	Arrangements re extension; calls and correspondence; draft Amending Agreement; prepare notice; discuss with J. Song'	900.00	1.70	1,530.00
10/10/23	JS	Call with J. Larry re amending agreement; draft same;	450.00	0.60	270.00
11/10/23	JS	Review correspondence with the Receiver; review Agreement of Purchase and Sale, as amended; draft notice of extension; draft cover letter for notice courier;	450.00	1.30	585.00
12/10/23	JL	Finalize notice of extension; correspondence;	900.00	0.30	270.00
16/10/23	JL	Review and consider legal memorandum re constructive trust claims and remedies;	900.00	0.20	180.00
19/10/23	JL	Review and consider correspondence from Sotos; discussions with counsel and internally with P. Davis; correspondence with KSV;	900.00	0.20	180.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
20/10/23	JL	Call with P. Davis; various correspondence; consider issues re factum and argument;	900.00	0.30	270.00
23/10/23	JL	Consider issues re Tarion motion; call with A. Merskey; issues re factum;	900.00	0.30	270.00
24/10/23	DR	Review factum on Tarion motion; comments to J. Larry re same;	615.00	0.20	123.00
25/10/23	JL	Call with D. Rosenbluth; review and comment on factum;	900.00	0.20	180.00
25/10/23	DR	Review Tarion motion factum;	615.00	0.20	123.00
26/10/23	DR	Review Tarion motion factum;	615.00	0.10	61.50
28/10/23	JL	Working on factum; calls with B. Kofman; call with D. Rosenbluth;	900.00	1.20	1,080.00
28/10/23	DR	Review Tarion motion factum and supporting materials; call with J. Larry re same; legal research and discuss same with J. Larry and Cassels Brock;	615.00	0.50	307.50
29/10/23	JL	Further revisions to factum; call with B. Kofman; correspondence with A. Merskey;	900.00	0.70	630.00
29/10/23	DR	Review updated factum re Tarion motion; discuss with team re same; revisions to factum; call with J. Larry re same;	615.00	0.30	184.50
30/10/23	JL	Final revisions to factum; call with D. Rosenbluth;	900.00	0.60	540.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
30/10/23	DR	Review updated factum; call with J. Larry re same;	615.00	0.30	184.50
31/10/23	JL	Call with Sotos; discussion with D. Rosenbluth; discussion with Cassels; correspondence re motion; various correspondence and call with B. Kofman;	900.00	0.60	540.00
31/10/23	DR	Call with Sotos re procedural issues on class action;	615.00	0.20	123.00
01/11/23	JL	Call with D. Sterns; consider issues re holdbacks and class action; internal discussions;	900.00	0.50	450.00
02/11/23	JL	Prepare for and attend at Tarion motion;	900.00	1.70	1,530.00
02/11/23	DR	Attending Tarion motion hearing;	615.00	0.80	492.00
03/11/23	DR	Drafting reporting note re motion for circulation to stakeholders;	615.00	0.10	61.50
06/11/23	JL	Revisions to Agreement of Purchase and Sale; correspondence with G. Benchetrit; correspondence with counsel re York Region;	900.00	0.60	540.00
08/11/23	JL	Consider issues re class action; conference call with Cassels;	900.00	0.20	180.00
09/11/23	JL	Discussion re distribution and class action issues;	900.00	0.20	180.00
14/11/23	JL	Call with B. Kofman and D. Rogers re status and revisions to APS; consider next steps; call with Weir Foulds; revise APS; call with Cassels;	900.00	1.60	1,440.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
16/11/23	JL	Review revisions to APS from counsel; correspondence; consider and discuss next steps;	900.00	0.60	540.00
16/11/23	DR	Review proposed amendments to APS: emails with J. Larry re same;	615.00	0.20	123.00
17/11/23	JL	Call with counsel re York Region APS; correspondence	900.00	0.30	270.00
17/11/23	DR	Various calls and emails with J. Larry and T. Ivanov re amendments to York Region APS;	615.00	0.30	184.50
20/11/23	JL	Calls with D. Rosenbluth; call with B. Kofman; review and consider amendments; call with D. Rogers;	900.00	1.50	1,350.00
20/11/23	DR	Correspondence with agent and receiver re proposed amendments to APS re York Region transaction issues;	615.00	0.60	369.00
21/11/23	JL	Various correspondence and discussion re negotiations and status of APS; revise APS;	900.00	1.60	1,440.00
21/11/23	DR	Discuss with J. Larry re amendments to APS concerning Tarion issue; preparing amendments;	615.00	0.90	553.50
22/11/23	JL	Various correspondence and phone calls re status of transaction and potential revisions to APS; revise APS; correspondence with counsel re extension of deal for York Region lands;	900.00	2.10	1,890.00
22/11/23	DR	Revisions to APS;	615.00	0.40	246.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
23/11/23	JL	Various calls and correspondence re status of negotiations and APS; draft Third Amending Agreement re York Region;	900.00	2.60	2,340.00
24/11/23	JL	Call with B. Kofman and D. Rogers; review and consider revisions to agreement of purchase and sale;	900.00	0.70	630.00
25/11/23	JL	Correspondence with B. Kofman, R. Munroe and D. Rogers; revise APS; correspondence with counsel;	900.00	1.20	1,080.00
27/11/23	JL	Review and consider further amendments to APS; correspondence to group; correspondence with B. Kofman;	900.00	0.40	360.00
28/11/23	JL	Call with T. Rotman; correspondence with B. Kofman; revise draft APS; correspondence with counsel re finalizing APS;	900.00	0.80	720.00
29/11/23	JL	Finalize and execute agreement; correspondence with BLG re: extension agreement;	900.00	0.60	540.00
30/11/23	JL	Various correspondence with counsel; revise authorization; call with T. Rotenberg;	900.00	0.60	540.00
05/12/23	JL	Prepare Third Amending Agreement with York Region; correspondence;	900.00	0.40	360.00
09/01/24	JL	Drafting amending agreement; calls and correspondence re waiver date and potential amendments and process;	950.00	1.40	1,330.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
10/01/24	JL	Various issues re arranging for closing and outlining next steps for sale and approval motion; discussion with D. Rogers; review and revise amending agreement; discussion with counsel; calls;	950.00	3.20	3,040.00
11/01/24	JL	Steps re motion date for sale approval and vesting order;	950.00	0.90	855.00
16/01/24	JL	Correspondence and organize issues re agreement and potential amendment;	950.00	0.30	285.00
17/01/24	JL	Call with D. Rogers, B. Kofman, R. Munroe regarding proposed revisions and amendment; review amending agreement; issues re finalizing agreement;	950.00	1.40	1,330.00
18/01/24	JL	Consider and plan issues for sale approval hearing; correspondence with Weir Foulds re various issues; schedule hearing date with court;	950.00	1.20	1,140.00
22/01/24	JL	Correspondence with Chaitons re York Region issues; review and consider issues re sale approval hearing;	950.00	0.60	570.00
30/01/24	JL	Correspondence with B. Kofman; call with T. Rothman; correspondence with Chaitons; correspondence with Sotos; consider issues re motion;	950.00	0.80	760.00
30/01/24	DW	Instructions from J. Larry; conduct title searches: 7810 McCowan Road, Markham, ON; 7822 McCowan Road, Markham, ON; 7834 McCowan Road, Markham, ON; 7846	275.00	0.60	165.00

DATE	LYR	DESCRIPTION	RATE	HOURS	AMOUNT
		McCowan Road, Markham, ON; email to J. Larry;			
31/01/24	JL	Discussion with D. Sterns re upcoming motion and class action claim; correspondence with B. Kofman; outline issues for upcoming motion;	950.00	0.60	570.00
31/01/24	JL	Drafting security opinion;	950.00	1.00	950.00
31/01/24	DW	Receipt and review of various searches re: Stateview Homes (NAO Towns II) Inc. - corporate profile, Bankruptcy and Insolvency; CCAA search; Bank Act s. 427 search, OWL report; Bankruptcy - Superior Court, Toronto; emails to J. Larry with status update;	275.00	0.50	137.50

TIME SUMMARY

MEMBER	HOURS	RATE	VALUE
Song, Janet (JS)	1.90	450.00	855.00
Watters, Deanna (DW)	1.10	275.00	302.50
Francis, Meredith (MF)	1.20	275.00	330.00
Larry, Jeffrey (JL)	41.60	913.70	38,010.00
Rosenbluth, Daniel (DR)	5.10	615.00	3,136.50
Davis, Paul (PJD)	0.50	750.00	375.00
	<u>51.40</u>		

OUR FEES \$ 43,009.00
 HST at 13% 5,591.17

Taxable Disbursements:

30/01/24 Execution Searches Re: CSP Search Voucher No. 35038 for Invoice 150.15
 No. 5833636 issued by: (130)CIBC
 HST at 13% 19.52

INVOICE TOTAL**\$ 48,769.84**



35th Floor
155 Wellington St. West
Toronto, Ontario M5V 3H1
Canada

416.646.4300
paliareroland.com

Private and Confidential
KSV Restructuring Inc.
150 King Street West, Suite 2308
Toronto, Ontario M5H 1J9

January 31, 2024
Invoice No.: 124610
Our File No.: 38004-101235

RE: Stateview Homes - NAO Towns II

**REMITTANCE COPY
PLEASE REMIT WITH PAYMENT**

OUR FEES	\$ 43,009.00
Total Disbursements subject to HST	150.15
Total HST	<u>5,610.69</u>
INVOICE TOTAL	<u><u>\$ 48,769.84</u></u>

ATRIUM MORTGAGE INVESTMENT CORPORATION et al. -and-
Plaintiffs

STATEVIEW HOMES (NAO TOWNS II) INC., et al.
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF BEATRICE LOSCHIAVO

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

155 Wellington Street West
35th Floor
Toronto, ON M5V 3H1

Jeffrey Larry (LSO# 44608D)
Tel: 416.646.4330
jeff.larry@paliareroland.com

Daniel Rosenbluth (LSO #71044U)
Tel: 416.646.6307
daniel.rosenbluth@paliareroland.com

Lawyers for the Receiver

TAB 3

Court File No. CV-23-00698395-00CL

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

THE HONOURABLE)	THURSDAY, THE 15 TH
)	
JUSTICE BLACK)	DAY OF FEBRUARY, 2024

B E T W E E N :

**ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL
CORPORATION**

Plaintiffs

- AND -

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI, and CARLO TAURASI

Defendants

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Stateview Homes (NAO Towns II) Inc. (the “**Debtor**”), for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and 1000707996 Ontario Inc. (the “**Purchaser**”), as purchaser, dated November 29, 2023, and amended on January 17, 2024 (the “**Sale Agreement**”) and vesting in the Purchaser the Purchased Assets (as defined in the Sale Agreement), was heard this day.

ON READING the Receiver's Report to the Court and appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Beatrice Loschiavo affirmed February 6, 2024, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of the Purchased Assets described in the Sale Agreement, including, without limitation, all of the Debtor's right, title and interest in and to the real property listed on **Schedule "B"** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of The Honourable Justice Steele made on May 2, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property*

Security Act (Ontario) or any other personal property registry system; (iii) any legal, equitable or other claims that any person had, has, or may in the future have, against the Real Property in connection with or arising from any agreements of purchase and sale (“**Buyer Agreements**”) entered into by the Debtor including any right to compel the closing of the transactions contemplated in the Buyer Agreements or any of them, and (iv) those Claims listed on **Schedule “C”** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule “D”**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject Real Property identified in **Schedule “B”** hereto in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule “C”** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of any of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

Schedule "A" (AVO) – Form of Receiver's Certificate

Court File No. CV-23-00698395-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N :

ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL CORPORATION

Plaintiffs

- AND -

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI, and CARLO TAURASI

Defendants

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

RECEIVER'S CERTIFICATE

WHEREAS pursuant to an Order of The Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on May 2, 2023, KSV Restructuring Inc. was appointed as receiver and manager (in such capacity, the "**Receiver**"), without security, of the assets, undertakings and properties of Stateview Homes (NAO Towns II) Inc. (the "**Debtor**").

AND WHEREAS pursuant to an Order of the Court dated February 15, 2024, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and 1000707996 Ontario Inc. (the "**Purchaser**"), as purchaser, dated November 29, 2023, and amended on January 17, 2024 (the "**Sale Agreement**"), and provided for the vesting in the Purchaser of the Purchased Assets (as

defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

AND WHEREAS unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

NOW THEREFORE THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV RESTRUCTURING INC., solely in its capacity as the Court-appointed receiver and manager of the Debtor, and not in its personal capacity or in any other capacity

Per: _____

Name: Bobby Kofman

Title: Licensed Insolvency Trustee

Schedule “B” (AVO) – Real Property

Legal Description: PT LT 6, CON 6, AS IN R640261; MARKHAM
PIN: 02962 — 0270 LT
Municipal Address: 7810 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN MA69140; MARKHAM
PIN: 02962 — 0271 LT
Municipal Address: 7822 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, PART 1, 2, 65R17687
PIN: 02962 — 0272 LT
Municipal Address: 7834 MCCOWAN ROAD, MARKHAM, ONTARIO

Legal Description: PT LT 6, CON 6, AS IN R491185; T/W MA54373
PIN: 02962 — 0273 LT
Municipal Address: 7846 MCCOWAN ROAD, MARKHAM, ONTARIO

Schedule "C" (AVO) – Instruments to Be Deleted from Title

PIN 02692-0270 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428361	2022/05/20	Transfer	\$17,200,000	10616389 Canada Limited	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 02962-0271 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428360	2022/05/20	Transfer	\$12,300,000	Weycliffe International Development Inc.	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 02962-0272 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428360	2022/05/20	Transfer	\$12,300,000	Weycliffe International Development Inc.	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

PIN 02962-0273 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR3428360	2022/05/20	Transfer	\$12,300,000	Weycliffe International Development Inc.	Stateview Homes (NAO Towns II) Inc.
YR3428362	2022/05/20	Charge	\$23,240,000	Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3428363	2022/05/20	No Assgn Rent Gen		Stateview Homes (NAO Towns II) Inc.	Dorr Capital Corporation, Atrium Mortgage Investment Corporation
YR3509408	2022/12/16	Charge	\$20,850,000	Stateview Homes (NAO Towns II) Inc.	Bergo Investment Limited, MCO Management Inc., Karamitsos, Tony
YR3539464	2023/04/06	Charge	\$37,134,091	Stateview Homes (NAO Towns II) Inc.	The Toronto-Dominion Bank
YR3548858	2023/05/05	Construction Lien	\$68,368	GEI Consultants Ltd.	
YR3553305	2023/05/18	APL Court Order		Ontario Superior Court of Justice	KSV Restructuring Inc.
YR3568810	2023/06/30	Certificate		GEI Consultants Ltd.	

Schedule "D" (AVO) – Permitted Encumbrances

PIN 02962-0270 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0271 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0272 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

PIN 02962-0273 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR686377	2005/08/18	Notice		Her Majesty The Queen in Right of Canada as represented by The Minister of Transport	

ATRIUM MORTGAGE INVESTMENT CORP. et al.

-and-

STATEVIEW HOMES (NAO TOWNS II) INC. et al.

Plaintiffs

Defendants

Court File No. CV-23-00698395-00CL

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

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1

Jeffrey Larry (LSO #44608D)
Tel: 416.646.4330
jeff.larry@paliareroland.com

Daniel Rosenbluth (LSO #71044U)
Tel: 416.646.6307
daniel.rosenbluth@paliareroland.com

Lawyers for the Receiver

TAB 4

Court File No. CV-23-00698395-00CL

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

THE HONOURABLE)	THURSDAY, THE 15 TH
JUSTICE BLACK)	DAY OF FEBRUARY, 2024
)	

B E T W E E N :

**ATRIUM MORTGAGE INVESTMENT CORPORATION AND DORR CAPITAL
CORPORATION**

Plaintiffs

- AND -

STATEVIEW HOMES (NAO TOWNS II) INC., DINO TAURASI, and CARLO TAURASI

Defendants

ANCILLARY RELIEF ORDER

THIS MOTION, made by KSV Restructuring Inc. (“KSV”) in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”) without security, of the property, assets and undertakings of Stateview Homes (NAO Towns II) Inc. (the “**Debtor**”), pursuant to the Order of this Court dated May 2, 2023 (the “**Receivership Order**”), for an order, among other things: (i) approving the Seventh Report of the Receiver dated February 7, 2024 (the “**Seventh Report**”) and the Receiver’s conduct and activities described therein; (ii) approving the fees and disbursements of the Receiver, as set out in the affidavit of Robert Kofman sworn February 7, 2024 and of the Receiver’s counsel, Paliare Roland Rosenberg Rothstein LLP (“**Paliare Roland**”), as set out in the Affidavit of Beatrice Loschiavo sworn February 5, 2024; and (iii) authorizing and directing the Receiver to make certain payments and distributions and

establish, hold and maintain certain reserves as recommended and described in the Seventh Report, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Notice of Motion of the Receiver, the Seventh Report and the Appendices thereto, and on hearing the submissions of counsel for the Receiver, and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service of Alexciya Blair sworn February 6, 2024.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Agreement of Purchase and Sale between the Receiver and 1000707996 Ontario Inc. (the “**Purchaser**”) dated November 29, 2023, and amended on January 17, 2024, attached at Appendix “I” to the Seventh Report (as amended, the “**APS**”), as applicable.

APPROVAL OF RECEIVER’S REPORTS, FEES AND COSTS

3. **THIS COURT ORDERS** that the Seventh Report, and the activities of the Receiver described therein are hereby approved provided that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that Confidential Appendices 1 and 2 to the Seventh Report be and are hereby sealed until the closing of the sale of the Purchased Assets (as defined in the Seventh Report).
5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver from the commencement of the receivership to and including January 31, 2024, as set out in the Affidavit of Robert Kofman sworn February 7, 2024 and attached at Appendix “O” to the Seventh Report, be and are hereby approved.
6. **THIS COURT ORDERS** that the fees and disbursements of Paliare Roland from the commencement of the receivership proceeding to and including January 31, 2024, as set out in the Affidavit of Beatrice Loschiavo sworn February 5, 2024 and attached at Appendix “P” to the Seventh Report, be and are hereby approved.

TERMINATION AND DISCLAIMER OF PRE-SALE PURCHASE AGREEMENTS

7. **THIS COURT ORDERS** that the Receiver’s termination and disclaimer (or intended termination and disclaimer, as the case may be) of any or all agreements of purchase and sale entered into between the Debtor (or any other parties related to the Debtor) and any third parties in respect of residential homes built or to be built on the Real Property is hereby approved.

RESERVE

8. **THIS COURT ORDERS** that the Receiver is authorized and directed to establish, hold and maintain reserves from the proceeds of the Transaction (the “**Purchase Proceeds**”) in the amount of \$100,000 on account of additional fees, disbursements and costs of the

Receiver and its counsel in connection with the Debtor (the “**Professional Fee Holdback**”).

INITIAL DISTRIBUTION

9. **THIS COURT ORDERS** that the Receiver is authorized and directed to distribute the Purchase Proceeds to Atrium Mortgage Investment Corporation and Dorr Capital Corporation (together, the “**Lenders**”) as partial payment of the balance owing by the Debtor to the Lenders less: (i) the unpaid professional fees described in the Seventh Report; and (ii) the Professional Fee Holdback.

SUBSEQUENT DISTRIBUTIONS

10. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to make subsequent distributions to the Lenders out of the Professional Fee Holdback (to the extent not utilized to pay fees, disbursements and costs of the Receiver and its counsel in connection with the Debtor) or from any other recoveries by the Receiver in respect of the Property up to the amount of indebtedness owing by the Debtor to the Lenders.

GENERAL

11. **THIS COURT ORDERS** that notwithstanding anything else contained in this Order, each of the payments and distributions provided for in this Order shall be made free and clear of all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise,

including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated May 2, 2023; and (ii) all charges security interests, liens, trusts, or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property or real property registry system.

12. **THIS COURT ORDERS** that the Receiver or any other person facilitating payments and distributions pursuant to this Order shall be entitled to deduct and withhold from any such payment or distribution such amounts as may be required to be deducted or withheld under any applicable law and to remit such amounts to the appropriate governmental authority or other person entitled thereto as may be required by such law. To the extent that amounts are so withheld or deducted and remitted to the appropriate governmental authority or other person entitled thereto, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order.

13. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such application; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

any payment or distributions made pursuant to this Order are final and irreversible and shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor

and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

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

16. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.
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ATRIUM MORTGAGE INVESTMENT CORP et al.
Plaintiffs

STATEVIEW HOMES (NAO II) INC. et al.

Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER

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Lawyers for the Receiver

ATRIUM MORTGAGE INVESTMENT CORPORATION et al. -and-

STATEVIEW HOMES (NAO TOWNS II) INC.

Applicants

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT
TORONTO**

**MOTION RECORD OF THE RECEIVER,
KSV RESTRUCTURING INC.**

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