

Court File No. 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**

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

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**DORR CAPITAL CORPORATION**

Applicant

- and -

**HIGHVIEW BUILDING CORP INC.**

Respondent

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**DORR CAPITAL CORPORATION**

Applicant

- and -

**STATEVIEW HOMES (BEA TOWNS) INC.**

Respondent

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

Applicants

- and -

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

Respondents

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**MERIDIAN CREDIT UNION**

Applicant

- and -

**STATEVIEW HOMES (ELM&CO) INC.**

Respondent

**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**

**AMENDED MOTION RECORD OF THE MOVING PARTY,  
TARION WARRANTY CORPORATION**

(Motion for Declaratory Relief)

(Returnable November 2, 2023)

September 18, 2023

**Torys LLP**

79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**David Outerbridge** (LSO #: 42724V)

Tel: 416.865.7825

Email: [douterbridge@torys.com](mailto:douterbridge@torys.com)

**Adam M. Slavens** (LSO#: 54433J)

Tel: 416.865.7333

Email: [aslavens@torys.com](mailto:aslavens@torys.com)

**Jonathan Silver** (LSO#: 70137Q)

Tel: 416.865.8198

Email: [jsilver@torys.com](mailto:jsilver@torys.com)

**Mike Noel** (LSO#: 80130F)

Tel: 416.865.7378

Email: [mnoel@torys.com](mailto:mnoel@torys.com)

Lawyers for Tarion Warranty Corporation

**TO: The Attached Service List**

**Service List  
(As of September 18, 2023)**

<p><b>BENNETT JONES LLP</b> 3400 One First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p><b>Sean Zweig</b> Tel: (416) 777-6254 Fax: (416) 863-1716 E-mail: <a href="mailto:zweigs@bennettjones.com">zweigs@bennettjones.com</a></p> <p><b>Aiden Nelms</b> Tel: (416) 777-4642 Fax: (416) 863-1716 E-mail: <a href="mailto:nelmsa@bennettjones.com">nelmsa@bennettjones.com</a></p> <p><i>Lawyers for the Applicants</i></p>	<p><b>KSV RESTRUCTURING INC.</b> 220 Bay Street Toronto, ON M5H 1J9</p> <p><b>Noah Goldstein</b> Tel: (416) 932-6207 Fax: (416) 932-6266 E-mail: <a href="mailto:ngoldstein@ksvadvisory.com">ngoldstein@ksvadvisory.com</a></p> <p><b>Bobby Kofman</b> Tel: (416) 932-6228 Fax: (416) 932-6266 E-mail: <a href="mailto:bkofman@ksvadvisory.com">bkofman@ksvadvisory.com</a></p> <p><b>Murtaza Tallat</b> Tel: (416) 932-6031 Fax: (416) 932-6266 E-mail: <a href="mailto:mtallat@ksvadvisory.com">mtallat@ksvadvisory.com</a></p> <p><b>Jordan Wong</b> Tel: (416) 932-6025 E-mail: <a href="mailto:jwong@ksvadvisory.com">jwong@ksvadvisory.com</a></p> <p><i>The Receiver</i></p>
<p><b>CASSELS BROCK &amp; BLACKWELL LLP</b> Suite 2100, Scotia Plaza, 40 King St. W. Toronto, ON M5H 3C2</p> <p><b>Ryan Jacobs</b> Tel: (416) 860-6465 Fax: (416) 360-8877 E-mail: <a href="mailto:rjacobs@cassels.com">rjacobs@cassels.com</a></p> <p><b>Joseph Bellissimo</b> Tel: (416) 860-6572 Fax: (416) 360-8877 E-mail: <a href="mailto:jbellissimo@cassels.com">jbellissimo@cassels.com</a></p> <p><b>Alec Hoy</b> Tel: (416) 860-2976 Fax: (416) 360-8877 E-mail: <a href="mailto:ahoy@cassels.com">ahoy@cassels.com</a></p> <p><b>Alan Merskey</b> Tel: (416) 860-2948 Email: <a href="mailto:amerskey@cassels.com">amerskey@cassels.com</a></p> <p><i>Lawyers for the Receiver</i></p>	<p><b>NORTON ROSE FULBRIGHT</b> 222 Bay St., Suite 3000 Toronto, ON M5K 1E7</p> <p><b>Jennifer Stam</b> Tel: (416) 202-6707 E-mail: <a href="mailto:jennifer.stam@nortonrosefulbright.com">jennifer.stam@nortonrosefulbright.com</a></p> <p><b>James Renihan</b> Tel: (416) 216-1944 E-mail: <a href="mailto:james.renihan@nortonrosefulbright.com">james.renihan@nortonrosefulbright.com</a></p> <p><i>Lawyers for 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.</i></p>

<p><b>TLSFD TAURASI HOLDINGS CORP.</b> 161 Duncan Road Richmond Hill, ON L4C 6J5</p> <p><b>Carlo Taurasi</b> E-mail: <a href="mailto:carlo@stateviewhomes.com">carlo@stateviewhomes.com</a></p> <p><b>Dino Taurasi</b> E-mail: <a href="mailto:dino@stateviewhomes.com">dino@stateviewhomes.com</a></p>	<p><b>ATTORNEY GENERAL OF CANADA</b> <b>Department of Justice Canada</b> <b>Ontario Regional Office, Tax Law Section</b> 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1P9</p> <p>Email: <a href="mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca">AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</a></p>
<p><b>HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY THE MINISTER OF FINANCE – INSOLVENCY UNIT</b> Ontario Ministry of Finance - Legal Services Branch 33 King Street West, 6th Floor Oshawa, ON L1H 8H5</p> <p><b>Leslie Crawford</b> Email: <a href="mailto:leslie.crawford@ontario.ca">leslie.crawford@ontario.ca</a></p> <p><b>General Enquiries</b> Email: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a></p>	<p><b>ONTARIO MINISTRY OF FINANCE INSOLVENCY UNIT</b> 6th floor, 33 King Street West Oshawa, Ontario L1H 8H5</p> <p><b>General Enquiries</b> Tel: 1.866.668.8297 Email: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a></p>
<p><b>CANADA REVENUE AGENCY</b> 1 Front Street West Toronto, ON M5J 2X6</p> <p><b>Pat Confalone</b> Tel: (416) 954-6514 Email: <a href="mailto:pat.confalone@cra-arc.gc.ca">pat.confalone@cra-arc.gc.ca</a></p>	<p><b>THE CORPORATION OF THE CITY OF MARKHAM</b> 101 Town Centre Boulevard Markham, ON L3R 9W3</p> <p><b>Kevin Ross</b> Tel: (905) 477-7000 ext. 2126 Email: <a href="mailto:kross@markham.ca">kross@markham.ca</a> <a href="mailto:customerservice@markham.ca">customerservice@markham.ca</a></p> <p><b>Michael Toshakovski</b> Email: <a href="mailto:MToshakovski@markham.ca">MToshakovski@markham.ca</a></p> <p><b>Claudia Storto</b> Email: <a href="mailto:cstorto@markham.ca">cstorto@markham.ca</a></p>
<p><b>MCARTHY TETRAULT LLP</b> Suite 5300, Toronto Dominion Bank Tower Toronto, ON M5K 1E6</p> <p><b>Geoff Hall</b> Tel: (416) 601-7856 E-mail: <a href="mailto:ghall@mccarthy.ca">ghall@mccarthy.ca</a></p> <p><b>Adam Ship</b> Tel: (416) 601-7731 E-mail: <a href="mailto:aship@mccarthy.ca">aship@mccarthy.ca</a></p> <p><b>Adam Dobkin</b> Tel: (416) 601-7563</p>	<p><b>MERCEDES-BENZ FINANCIAL</b> 2680 Matheson Blvd. E., Suite 500 Mississauga, ON L4W 0A5</p> <p><i>PPSA Registrant</i></p>

<p>E-mail: <a href="mailto:adobkin@mccarthy.ca">adobkin@mccarthy.ca</a></p> <p><b>Saneea Tanvir</b> Tel: (416) 601-8181 E-mail: <a href="mailto:stanvir@mccarthy.ca">stanvir@mccarthy.ca</a></p> <p><i>Lawyers for the Toronto Dominion Bank</i></p>	
<p><b>TRUDEL &amp; SONS ROOFING LTD and 2496008 ONTARIO INC. c/o Pallett Valo LLP</b> 77 City Centre Drive, Suite 300 Mississauga, ON L5B 1M5</p> <p><b>Maria Ruberto</b> Tel: (289) 805-3341 E-mail: <a href="mailto:mruberto@pallettvalo.com">mruberto@pallettvalo.com</a></p> <p><i>Lien Registrants</i></p>	<p><b>AIRD &amp; BERLIS LLP</b> Brookfield Place 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9</p> <p><b>Ian Aversa</b> Tel: (416) 865-3082 E-mail: <a href="mailto:iaversa@airdberlis.com">iaversa@airdberlis.com</a></p> <p><b>Matilda Lici</b> Tel: (416) 865-3428 E-mail: <a href="mailto:mlici@airdberlis.com">mlici@airdberlis.com</a></p> <p><i>Lawyers for the Corporation of the Township of King</i></p>
<p><b>BLANEY MCMURTRY LLP</b> 2 Queen St. E., Suite 1500 Toronto, ON M5C 3G5</p> <p><b>Eric Golden</b> Tel: (416) 593-3927 E-mail: <a href="mailto:egolden@blaney.com">egolden@blaney.com</a></p> <p><i>Lawyers for Dorr Capital Corporation</i></p>	<p><b>LENCZNER SLAGHT LLP</b> 130 Adelaide St W, Suite 2600 Toronto, ON M5H 3P5</p> <p><b>Andrew Parley</b> Tel: (416) 865-3093 E-mail: <a href="mailto:aparley@litigate.com">aparley@litigate.com</a></p> <p><b>Matt Lerner</b> Tel: (416) 865-2940 E-mail: <a href="mailto:mlerner@litigate.com">mlerner@litigate.com</a></p> <p><i>Lawyers for Dino Taurasi, Carlo Taurasi and Dennie Taurasi</i></p>
<p><b>REGIONAL MUNICIPALITY OF YORK</b> 17250 Yonge Street Newmarket, ON L3Y 6Z1</p> <p><b>Fabrizio Filippazzo</b> Email: <a href="mailto:Fabrizio.Filippazzo@york.ca">Fabrizio.Filippazzo@york.ca</a></p> <p><b>Bola Ogunmefun</b> Email: <a href="mailto:Bola.Ogunmefun@york.ca">Bola.Ogunmefun@york.ca</a></p>	<p><b>TORYS LLP</b> 79 Wellington St W, Suite 3300 Toronto, ON M5K 1N2</p> <p><b>David Outerbridge</b> Tel: 416.865.7825 Email: <a href="mailto:douterbridge@torys.com">douterbridge@torys.com</a></p> <p><b>Adam M. Slavens</b> Tel: 416.865.7333 Email: <a href="mailto:aslavens@torys.com">aslavens@torys.com</a></p> <p><b>Jonathan Silver</b> Tel: 416.865.8198 Email: <a href="mailto:jsilver@torys.com">jsilver@torys.com</a></p>

	<p><b>Mike Noel</b> Tel: 416.865.7378 Email: <a href="mailto:mnoel@torys.com">mnoel@torys.com</a></p> <p><i>Lawyers for Tarion Warranty Corporation</i></p>
<p><b>MARGIE STRUB CONSTRUCTION LAW LLP</b> 2300 Yonge Street, Suite 2001 Toronto, ON M4P 1E4</p> <p><b>Jaspal Sangha</b> Tel: (647) 792-0010 E-mail: <a href="mailto:jsangha@margiestrub.com">jsangha@margiestrub.com</a></p> <p><i>Lawyers for Generation Carpentry Ltd.</i></p>	<p><b>CHAITONS LLP</b> 5000 Yonge Street North York, ON M2N 7E9</p> <p><b>George Benchetrit</b> Tel: (416) 218-1141 E-mail: <a href="mailto:george@chaitons.com">george@chaitons.com</a></p> <p><b>Laura Culleton</b> Tel: (416) 218-1128 E-mail: <a href="mailto:laurac@chaitons.com">laurac@chaitons.com</a></p> <p><i>Lawyers for Dorr Capital Corporation and Atrium Mortgage Corporation</i></p>
<p><b>WATEROUS HOLDEN AMEY HITCHON LLP</b> 20 Wellington Street, PO Box 1510 Brantford, ON N3T 5V6</p> <p><b>Dennis Touesnard</b> Tel: (519) 759-6220 ext. 306 E-mail: <a href="mailto:dtouesnard@waterousholden.com">dtouesnard@waterousholden.com</a></p> <p><i>Lawyers for St. Amand Interior Design Inc.</i></p>	<p><b>PALLETT VALO LLP</b> 77 City Center Drive, West Tower Suite 300 Mississauga, ON L5B 1M5</p> <p><b>Maria Ruberto</b> Tel: 289.805.3441 E-mail: <a href="mailto:mruberto@pallettvalo.com">mruberto@pallettvalo.com</a></p> <p><b>Matthew J. Greco</b> Tel: 289.294.1076 E-mail: <a href="mailto:mgreco@pallettvalo.com">mgreco@pallettvalo.com</a></p> <p><i>Lawyers for Benfica Construction Ltd., Trudel &amp; Sons Roofing Ltd. and 2496008 Ontario Inc.</i></p>
<p><b>KOSKIE MINSKY</b> 20 Queen Street West, Suite 900 Toronto, ON M5H 3R3</p> <p><b>Jeffrey J. Long</b> Tel: 416.595.2125 E-mail: <a href="mailto:jlong@kmlaw.ca">jlong@kmlaw.ca</a></p> <p><i>Lawyers for Con-Drain (1983) Limited, Pro Star Excavating &amp; Grading Ltd and Best Rental Services Inc.</i></p>	<p><b>FAAN ADVISORS GROUP INC.</b> 20 Adelaide Street East, Suite 920 Toronto, ON M5C 2T6</p> <p><b>Naveed Manzoor</b> E-mail: <a href="mailto:naveed@faanadvisors.com">naveed@faanadvisors.com</a></p> <p><b>Naomi Lieberman</b> E-mail: <a href="mailto:naomi@faanadvisors.com">naomi@faanadvisors.com</a></p> <p><i>Financial Advisor to the Respondents</i></p>
<p><b>PARENTE BOREAN LLP</b> 3883 Highway 7, Suite 207 Woodbridge, ON L4L 6C1</p> <p><b>Christina Presenza</b> E-mail: <a href="mailto:cpresenza@parenteborean.com">cpresenza@parenteborean.com</a></p>	<p><b>CAPULLI LAW</b> 207 Edgeley Blvd., Unit 23 Concord, ON L4K 4B5</p> <p><b>David Capulli</b> Tel: 647.504.6878</p>

<p><b>Gerard C. Borean</b> E-mail: <a href="mailto:gborean@parenteborean.com">gborean@parenteborean.com</a></p> <p><i>Lawyers for 2515792 Ontario Inc. and Auriva Stone Design</i></p>	<p>E-mail: <a href="mailto:davidcapulli@capullilaw.com">davidcapulli@capullilaw.com</a></p> <p><i>Counsel to Ragno Electric Ltd.</i></p>
<p><b>BARRY S. GREENBERG</b> 7626A Yonge Street Thornhill, ON L4J 1V9</p> <p><b>Barry Greenberg</b> Tel: 905.886.9535 E-mail: <a href="mailto:barry@greenberglaw.ca">barry@greenberglaw.ca</a></p> <p><i>Lawyers for Velcan Forest Products Inc.</i></p>	<p><b>FOGLER, RUBINOFF LLP</b> TD Center North Tower 77 King Street West, Suite 3000 P.O. Box 95 Toronto, ON M5K 1G8</p> <p><b>Ian P. Katchin</b> Tel: 416.864.7613 E-mail: <a href="mailto:ikatchin@foglers.com">ikatchin@foglers.com</a></p> <p><i>Lawyers for UCIT Online Security Inc. (o/a Stealth Monitoring)</i></p>
<p><b>BISCEGLIA &amp; ASSOCIATES, PROFESSIONAL CORPORATION</b> 9100 Jane Street Suite 200, Building A Vaughan, ON L4K 0A4</p> <p><b>Sonja Turajlich</b> Tel: 905.695.3424 E-mail: <a href="mailto:sturajlich@lawtoronto.com">sturajlich@lawtoronto.com</a></p> <p><i>Lawyers for Tamarack Lumber Inc.</i></p>	<p><b>UCIT ONLINE SECURITY INC. (O/A STEALTH MONITORING)</b> 3198 Orlando Drive Mississauga, ON L4V 1R5</p> <p><b>Sidney Sommer</b> Tel: 416.970.9800 Email: <a href="mailto:Sidney@stealthmonitoring.com">Sidney@stealthmonitoring.com</a></p> <p><b>Joseph A. Wyly</b> Email: <a href="mailto:jwyly@stealthmonitoring.com">jwyly@stealthmonitoring.com</a></p>
<p><b>MICHAEL COHEN BARRISTER &amp; SOLICITOR</b> 7676 Woodbine Ave, Suite 100 Markham, Ontario L3R 2N2</p> <p><b>Adam Lifshitz</b> Tel: 416.920.5353 Email: <a href="mailto:adam@michaelcohenbarrister.ca">adam@michaelcohenbarrister.ca</a></p> <p><i>Lawyers for Applewood Air-Conditioning Limited</i></p>	<p><b>ROUSSEAU MAZZUCA LLP</b> 65 Queen Street West, Suite 600 Toronto, Ontario M5H 2M5</p> <p><b>Michael Carmine Mazzuca</b> E-mail: <a href="mailto:michael@rousseaumazzuca.com">michael@rousseaumazzuca.com</a></p> <p><i>Lawyers for Pasquale Bono</i></p>
<p><b>MBC LAW PROFESSIONAL CORPORATION</b> 265 Carling Ave, Suite 500 Ottawa, Ontario K1S 2E1</p> <p><b>Ian B. McBride</b> E-mail: <a href="mailto:imbride@mbclaw.ca">imbride@mbclaw.ca</a></p> <p><i>Lawyers for Car-Wal Garage Doors</i></p>	<p><b>MANDELL LAW PROFESSIONAL CORPORATION</b> 5255 Yonge Street, Suite 800 North York, Ontario M2N 6P4</p> <p><b>Jeremy Nathaniel Mandell</b> E-mail: <a href="mailto:jeremy@kadishlaw.com">jeremy@kadishlaw.com</a></p> <p><i>Lawyers for Central Glass and Mirror Ltd.</i></p>
<p><b>FRANK FELDMAN LAW</b> 45 Sheppard Avenue East, Suite 414</p>	<p><b>KOSKIE MINSKY</b> 20 Queen Street West, Suite 900</p>



<p>Toronto, Ontario M2N 5W9</p> <p><b>Frank Feldman</b> E-mail: <a href="mailto:frank@frankfeldmanlaw.com">frank@frankfeldmanlaw.com</a></p> <p><i>Lawyers for Decksterity Carpentry Contracting</i></p>	<p>Toronto, Ontario M5H 3R3</p> <p><b>Daniel Resnick</b> Tel: 416.542.6299 E-mail: <a href="mailto:dresnick@kmlaw.ca">dresnick@kmlaw.ca</a></p> <p><i>Lawyers for Massimo Di Giovanni</i></p>
<p><b>BIANCHI PRESTA LLP</b> 9100 Jane St Building A, 3<sup>rd</sup> Floor Concord, Ontario L4K 0A4</p> <p><b>Domenic C.S. Presta</b> Tel: 905.738.0528 E-mail: <a href="mailto:dpresta@bianchipresta.com">dpresta@bianchipresta.com</a></p> <p><i>Lawyers for Giancola Aluminum Contractors Inc., Ganiva Trim Carpentry, Maple Drywall Inc. &amp; North York Tile Contractors Ltd.</i></p>	<p><b>SUTHERLAND LAW</b> 904-3300 Highway No. 7 Concord, Ontario L4K 4M3</p> <p><b>Matthew Kersten</b> E-mail: <a href="mailto:mkersten@sutherlaw.com">mkersten@sutherlaw.com</a></p> <p><i>Lawyers for Ideal Railings Ltd., Strada Aggregates Inc. &amp; Woodbridge Stoneslinger (1994) Limited</i></p>
<p><b>PASCALE DI POCE</b> 3800 Steeles Avenue West, Suite 300 Vaughan, Ontario L4L 4G9</p> <p><b>Tony M. Di Poce</b> E-mail: <a href="mailto:tdipoce@gtalaw.com">tdipoce@gtalaw.com</a></p> <p><i>Lawyers for Octavio Sousa Painting &amp; Renovation</i></p>	<p><b>EME PROFESSIONAL CORPORATION</b> 2 Old English Lane Markham, Ontario L3T 2T9</p> <p><b>Peter Doyun Kim</b> Tel: 416.800.1783 E-mail: <a href="mailto:peter@emecorp.ca">peter@emecorp.ca</a></p> <p><i>Lawyers for Stardrain &amp; Concrete Inc.</i></p>
<p><b>DOOLEY LUCENTI LLP</b> 10 Checkley St Barrie, Ontario L4N 1W1</p> <p><b>Andrew Wood</b> E-mail: <a href="mailto:awood@dllaw.ca">awood@dllaw.ca</a></p> <p><b>April Hollebek</b> E-mail: <a href="mailto:ahollebek@dllaw.ca">ahollebek@dllaw.ca</a></p> <p><i>Lawyers for Sunbelt Rentals of Canada Inc.</i></p>	<p><b>PALIARE ROLAND ROSENBERG ROTHSTEIN LLP</b> 155 Wellington Street West, 35<sup>th</sup> Floor Toronto, Ontario M5V 3H1</p> <p><b>Jeffrey Larry</b> Tel: 416.646.4330 E-mail: <a href="mailto:jeff.larry@paliareroland.com">jeff.larry@paliareroland.com</a></p> <p><b>Daniel Rosenbluth</b> Tel: 416.646.6307 Email: <a href="mailto:daniel.rosenbluth@paliareroland.com">daniel.rosenbluth@paliareroland.com</a></p> <p>Lawyers for the Receiver, KSV Restructuring Inc.</p>
<p><b>FOGLER RUBINOFF LLP</b> 77 King Street West, Suite 3000 Toronto, Ontario M5K 1G8</p> <p><b>Martin Kaplan</b> Tel: 416.941.8822 E-mail: <a href="mailto:mkaplan@foglers.com">mkaplan@foglers.com</a></p> <p><i>Lawyers for Bergo Investment Limited, MCO Management Inc. and Tony Karamitsos</i></p>	<p><b>OSLER, HOSKIN &amp; HARCOURT LLP</b> First Canadian Place 1 King Street West, Suite 6200 Toronto, Ontario, M5X 1B8</p> <p><b>Marc Wasserman</b> Tel: 416.862.4908 E-mail: <a href="mailto:mwasserman@osler.com">mwasserman@osler.com</a></p> <p><b>David Rosenblat</b></p>

	<p>Tel: 416.862.5673 E-mail: <a href="mailto:drosenblat@osler.com">drosenblat@osler.com</a></p> <p><i>Lawyers for the proposed Stalking Horse Purchaser</i></p>
<p><b>BORDEN LADNER GERVAIS</b> Bay Adelaide Centre, East Tower 22 Adelaide Street West Toronto, ON M5H 4E3</p> <p><b>Tamila Ivanov</b> Tel: (416) 367-6034 Email: <a href="mailto:tivanov@blg.com">tivanov@blg.com</a></p> <p><b>Roger Jaipargas</b> Email: <a href="mailto:rjaipargas@blg.com">rjaipargas@blg.com</a></p> <p><i>Lawyers for the Regional Municipality of York</i></p>	<p><b>BEARD WINTER LLP</b> 130 Adelaide Street West, 7<sup>th</sup> Floor Toronto, ON M5H 2K4</p> <p><b>Nick Dimitropoulos</b> Email: <a href="mailto:ndimitropoulos@beardwinter.com">ndimitropoulos@beardwinter.com</a></p>
<p><b>Ashot Muradov</b> Email: <a href="mailto:muradov@sympatico.ca">muradov@sympatico.ca</a></p>	<p><b>FOGLER, RUBINOFF LLP</b> 77 King Street West Suite 3000, P.O. Box 95 TD Centre North Tower Toronto, ON M5K 1G8</p> <p><b>Vern W. DaRe</b> Tel: 416.941.8842 Email: <a href="mailto:vdare@foglery.com">vdare@foglery.com</a></p> <p><i>Lawyer for Meridian</i></p>

## EMAIL SERVICE LIST

[zweigs@bennettjones.com](mailto:zweigs@bennettjones.com); [elmsa@bennettjones.com](mailto:elmsa@bennettjones.com); [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com);  
[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com); [mtallat@ksvadvisory.com](mailto:mtallat@ksvadvisory.com); [jwong@ksvadvisory.com](mailto:jwong@ksvadvisory.com);  
[rjacobs@cassels.com](mailto:rjacobs@cassels.com); [jbello@bellissimo.com](mailto:jbello@bellissimo.com); [ahoy@cassels.com](mailto:ahoy@cassels.com); [AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca](mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca); [leslie.crawford@ontario.ca](mailto:leslie.crawford@ontario.ca); [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca);  
[pat.confalone@cra-arc.gc.ca](mailto:pat.confalone@cra-arc.gc.ca); [kross@markham.ca](mailto:kross@markham.ca); [customerservice@markham.ca](mailto:customerservice@markham.ca);  
[ghall@mccarthy.ca](mailto:ghall@mccarthy.ca); [aship@mccarthy.ca](mailto:aship@mccarthy.ca); [adobkin@mccarthy.ca](mailto:adobkin@mccarthy.ca); [stanvir@mccarthy.ca](mailto:stanvir@mccarthy.ca);  
[mruberto@pallettvalo.com](mailto:mruberto@pallettvalo.com); [jennifer.stam@nortonrosefulbright.com](mailto:jennifer.stam@nortonrosefulbright.com);  
[james.renihan@nortonrosefulbright.com](mailto:james.renihan@nortonrosefulbright.com); [carlo@stateviewhomes.com](mailto:carlo@stateviewhomes.com);  
[dino@stateviewhomes.com](mailto:dino@stateviewhomes.com); [egolden@blaney.com](mailto:egolden@blaney.com); [aparley@litigate.com](mailto:aparley@litigate.com);  
[abrizio.Filippazzo@york.ca](mailto:abrizio.Filippazzo@york.ca); [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com); [mlici@airdberlis.com](mailto:mlici@airdberlis.com);  
[mlerner@litigate.com](mailto:mlerner@litigate.com); [douterbridge@torys.com](mailto:douterbridge@torys.com); [aslavens@torys.com](mailto:aslavens@torys.com); [jsilver@torys.com](mailto:jsilver@torys.com);  
[mnoel@torys.com](mailto:mnoel@torys.com); [MToshakovski@markham.ca](mailto:MToshakovski@markham.ca); [Bola.Ogunmefun@york.ca](mailto:Bola.Ogunmefun@york.ca);  
[cstorto@markham.ca](mailto:cstorto@markham.ca); [jsangha@margiestrub.com](mailto:jsangha@margiestrub.com); [bola.ogunmefun@york.ca](mailto:bola.ogunmefun@york.ca);  
[laurac@chaitons.com](mailto:laurac@chaitons.com); [george@chaitons.com](mailto:george@chaitons.com); [dtouesnard@waterousholden.com](mailto:dtouesnard@waterousholden.com);  
[mruberto@pallettvalo.com](mailto:mruberto@pallettvalo.com); [mgreco@pallettvalo.com](mailto:mgreco@pallettvalo.com); [jlong@kmlaw.ca](mailto:jlong@kmlaw.ca);  
[naveed@faanadvisors.com](mailto:naveed@faanadvisors.com); [naomi@faanadvisors.com](mailto:naomi@faanadvisors.com); [cpresenza@parenteborean.com](mailto:cpresenza@parenteborean.com);  
[gborean@parenteborean.com](mailto:gborean@parenteborean.com); [davidcapulli@capullilaw.com](mailto:davidcapulli@capullilaw.com); [barry@greenberglaw.ca](mailto:barry@greenberglaw.ca);  
[ikatchin@foglers.com](mailto:ikatchin@foglers.com); [sturajlich@lawtoronto.com](mailto:sturajlich@lawtoronto.com); [idney@stealthmonitoring.com](mailto:idney@stealthmonitoring.com);  
[jwyly@stealthmonitoring.com](mailto:jwyly@stealthmonitoring.com); [adam@michaelcohenbarrister.ca](mailto:adam@michaelcohenbarrister.ca);  
[michael@rousseau-mazzuca.com](mailto:michael@rousseau-mazzuca.com); [imcbride@mbclaw.ca](mailto:imcbride@mbclaw.ca); [frank@frankfeldmanlaw.com](mailto:frank@frankfeldmanlaw.com);  
[dresnick@kmlaw.ca](mailto:dresnick@kmlaw.ca); [dpresta@bianchipresta.com](mailto:dpresta@bianchipresta.com); [tdipoce@gtalaw.com](mailto:tdipoce@gtalaw.com); [peter@emecorp.ca](mailto:peter@emecorp.ca);  
[awood@dllaw.ca](mailto:awood@dllaw.ca); [ahollebek@dllaw.ca](mailto:ahollebek@dllaw.ca); [jeremy@kadishlaw.com](mailto:jeremy@kadishlaw.com); [mkersten@sutherlaw.com](mailto:mkersten@sutherlaw.com);  
[jeff.larry@paliareroland.com](mailto:jeff.larry@paliareroland.com); [daniel.rosenbluth@paliareroland.com](mailto:daniel.rosenbluth@paliareroland.com); [mkaplan@foglers.com](mailto:mkaplan@foglers.com);  
[mwasserman@osler.com](mailto:mwasserman@osler.com); [drosenblat@osler.com](mailto:drosenblat@osler.com); [tivanov@blq.com](mailto:tivanov@blq.com); [rjaipargas@blq.com](mailto:rjaipargas@blq.com);  
[ndimitropoulos@beardwinter.com](mailto:ndimitropoulos@beardwinter.com); [muradov@sympatico.ca](mailto:muradov@sympatico.ca); [vdare@foglers.com](mailto:vdare@foglers.com);  
[amerskey@cassels.com](mailto:amerskey@cassels.com)

## TABLE OF CONTENTS

<b>Tab</b>	<b>Description</b>	<b>Page No.</b>
1.	Notice of Motion, dated September 1, 2023	1
2.	Affidavit of Kevin Brodie, sworn August 31, 2023	13
	<b>Exhibit “A”</b> Sample Builder Agreement	25
	<b>Exhibit “B”</b> Sample Vendor Agreement	43
	<b>Exhibit “C”</b> Receivership Order, dated May 2, 2023 (Atrium Mortgage Investment Corporation and Dorr Capital Corporation)	61
	<b>Exhibit “D”</b> Receivership Order, dated May 2, 2023 (Dorr Capital Corporation v Highview)	79
	<b>Exhibit “E”</b> Receivership Order, dated May 2, 2023 (Dorr Capital Corporation v Stateview BEA Towns)	99
	<b>Exhibit “F”</b> Receivership Order, dated May 2, 2023 (KingSett Mortgage Corporation)	119
	<b>Exhibit “G”</b> Receivership Order, dated May 18, 2023 (Meridian)	148
	<b>Exhibit “H”</b> Pollack Affidavit, sworn April 26, 2023	168
	<b>Exhibit “I”</b> Globe and Mail article, dated April 27, 2023	211
	<b>Exhibit “J”</b> Globe and Mail article, dated May 11, 2023	215
	<b>Exhibit “K”</b> First Report to the Receiver, dated May 30, 2023	220
	<b>Exhibit “L”</b> Redacted Sample APS	274
	<b>Exhibit “M”</b> Addendum	338
	<b>Exhibit “N”</b> Deposit Trust Agreement	353
3.	Supplementary Affidavit of Kevin Brodie, sworn September 14, 2023	367
	<b>Exhibit “A”</b> CBC article, dated April 27, 2023	371
	<b>Exhibit “B”</b> CBC article, dated May 3, 2023	380
	<b>Exhibit “C”</b> Additional Redacted Sample APS	387



TAB1

Court File No. 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**

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

**DORR CAPITAL CORPORATION**

Applicant

- and -

**HIGHVIEW BUILDING CORP INC.**

Respondent

**DORR CAPITAL CORPORATION**

Applicant

- and -

**STATEVIEW HOMES (BEA TOWNS) INC.**

Respondent

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

Applicants

- and -

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

Respondents

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**MERIDIAN CREDIT UNION**

Applicant

- and -

**STATEVIEW HOMES (ELM&CO) INC.**

Respondent

**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**

**NOTICE OF MOTION**  
(Motion for Declaratory Relief)

Tarion Warranty Corporation (“**Tarion**”) will make a motion to a Judge of the Ontario Superior Court of Justice (Commercial List) on November 2, 2023 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard:

In writing under subrule 37.12.1(1)

In writing as an opposed motion under subrule 37.12.1(4);

- In person;
- By telephone conference;
- By video conference.

at the following location

330 University Avenue, Toronto, Ontario

*(Courthouse address for in person hearing or telephone conference or video conference details, such as a dial-in number, access code, video link, etc. if applicable)*

**THE MOTION IS FOR:**

- (a) a declaration that the New Home Purchasers,<sup>1</sup> and in the alternative, Tarion, are the beneficial owners of all deposit monies received by the Stateview Debtor Companies:
- (i) under a statutory, express, implied, and/or constructive trust by operation of the Warranties Act and its regulations, the Builder-Vendor Agreements, the Purchase Agreements and/or the Addendum; and
- (ii) under an implied and/or constructive trust by operation of the common law and the principles of equity;
- (b) as security for the amounts referred to in paragraph (a), the New Home Purchasers and/or Tarion, as applicable, are entitled to a court-ordered charge on all of the Stateview Debtor Companies' assets, property and undertaking, and in the

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<sup>1</sup> Capitalized terms in this section have the meanings given to them below.



alternative, an equitable lien on all of the Stateview Debtor Companies' assets, property and undertaking;

(c) a declaration that the charge and/or the equitable lien referred to in paragraph (b) ranks:

(i) immediately behind the Receiver's Charge, the Receiver's Borrowings Charge (each, as defined in the Receivership Orders) and the charges as set out in subsections 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;

(ii) in the alternative, immediately behind each of the Super-priority Charges and the secured claims of registered mortgagees (the "**Mortgages**"), and ahead of the claims of all other creditors; and

(iii) in the further alternative, in some other priority to the claims of ordinary unsecured creditors;

(d) the costs of this motion, plus all applicable taxes; and

(e) such further and other relief as to this Court may seem just.

**THE GROUNDS FOR THE MOTION ARE:**

**A. Tarion Warranty Corporation**

(a) Tarion is a private, not-for-profit corporation established in 1976 to protect the rights of new home purchasers and owners in Ontario and is designated by the

Province to administer the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31, including the regulations promulgated thereunder (collectively, the “**Warranties Act**”);

- (b) The Warranties Act sets out the warranties and other protections to which new home purchasers and owners are entitled in Ontario, as well as the framework for Tarion’s administration of the program;
- (c) Among those warranties and protections are protections for the deposits paid by home purchasers to home vendors in connection with their purchase of new freehold homes;
- (d) Where such a purchaser is entitled to a refund of his or her deposit and is unable to obtain recourse from the home vendor within the prescribed time periods, the Warranties Act provides a framework whereby the purchaser may assert a claim against Tarion in an amount up to \$100,000 in respect of that deposit (though the amount of the total deposit may be greater);
- (e) If those deposit claims are determined to be valid, then, under the Warranties Act, Tarion will pay out on those claims from the guarantee fund that Tarion maintains for this and similar purposes under the Warranties Act;
- (f) Tarion, in turn, can assert a claim for reimbursement against the vendor or other parties regarding such deposit claims (including out-of-pocket amounts and applicable administration fees and other amounts that may be payable);

**B. The Stateview Debtor Companies**

- (g) The respondents to these receivership proceedings are 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. (collectively, the “**Stateview Debtor Companies**”);
- (h) The Stateview Debtor Companies were real estate developers subject to the Warranties Act, with multiple freehold home development projects underway, engaging in activities that are required to be conducted by vendors and builders in a manner that complies with the Warranties Act;
- (i) The Stateview Debtor Companies and Tarion were parties to various builder and vendor agreements, as provided for under the Warranties Act (the “**Builder-Vendor Agreements**”);
- (j) On May 2, 2023, and May 18, 2023, this Court issued receivership orders (the “**Receivership Orders**”) appointing KSV Restructuring Inc. as the receiver and manager (the “**Receiver**”) of the property, assets and undertaking of the Stateview Debtor Companies (such proceedings, collectively, the “**Receivership Proceedings**”);
- (k) On June 5, 2023, this Court approved a sale process for the Stateview Debtor Companies and their assets in the Receivership Proceedings (the “**Sale Process**”);

### C. The Stateview Debtor Companies Misappropriated Deposits

- (a) The Stateview Debtor Companies, in connection with their freehold home development projects, entered into various agreements of purchase and sale with home purchasers in connection with those projects and activities (the “**Purchase Agreements**”);
- (b) As set out in the first report of the Receiver dated May 30, 2023 (the “**First Report**”), 765 of those home purchasers (the “**New Home Purchasers**”) made deposit payments totaling \$77,172,000 to the Stateview Debtor Companies (the “**Deposits**”) under Purchase Agreements, all in connection with freehold homes;
- (c) According to the First Report, the Deposits were taken by the Stateview Debtor Companies prior to the Receivership Proceedings as follows:

<b>Project</b>	<b>Number of Purchasers</b>	<b>Deposits (‘000s)</b>
Minu Towns	147	\$19,208
Nao Towns	96	7,680
Nao Towns II	76	7,617
Nashville (Highview)	4	Nil
BEA Towns	218	17,440
Elm	145	16,076
High Crown	47	4,933
On the Mark	32	4,218
	<b>765</b>	<b>\$77,172</b>

- (d) According to the First Report, the Deposits were not placed in an express and/or segregated escrow or trust account by the vendor or were no longer being held in an express and/or segregated escrow or trust account as at the commencement of the Receivership Proceedings;

- (e) It does not appear that the Stateview Debtor Companies executed any deposit trust agreements in connection with the real estate developments that are the subject of the Receivership Proceedings;
- (f) The Stateview Debtor Companies were required by the Warranties Act to include the statutory addendum (the “**Addendum**”) in all agreements of purchase and sale for new freehold homes—a standard Province-wide form of document that sets out certain rights and obligations of both purchasers and vendors with respect to such deposits, among other things. The Stateview Debtor companies included the Addendum in some or all of the Purchase Agreements with the New Home Purchasers;
- (g) The Stateview Debtor Companies used the Deposits: (a) to fund the real estate development activities of the Stateview Debtor Companies; and/or (b) improperly and/or fraudulently for illegitimate purposes not related to the funding of real estate development activities of the Stateview Debtor Companies;

**D. The Deposit Claims**

- (h) There are insufficient funds available in the Stateview Debtor Companies’ estates to refund in full all Deposits to New Home Purchasers;
- (i) To the extent that the Stateview Debtor Companies fail to refund the Deposits to the New Home Purchasers, the New Home Purchasers are creditors of the Stateview Debtor Companies for such amounts;

- (j) If the claims of the New Home Purchasers are not satisfied out of the Stateview Debtor Companies' estates, Tarion will have a statutory obligation to reimburse the valid claims of the New Home Purchasers to a maximum liability of \$100,000 for each freehold home;
- (k) The Warranties Act provides that Tarion, in turn, is subrogated to all rights of recovery of, and can maintain a legal action in the name of (or in its own name), all New Home Purchasers to whom Tarion makes a payment on account of their claims;
- (l) By operation of the common law and the principles of equity, and in the alternative, by operation of the Warranties Act and its regulations, the Builder-Vendor Agreements, the Purchase Agreements and/or the Addendum, all monies received by Stateview Debtor Companies from a New Home Purchaser are held in trust for the New Home Purchaser, and in the alternative, for Tarion, by way of statutory, express, implied, and/or constructive trust;
- (m) As security for those amounts, the New Home Purchasers and/or Tarion, as applicable, are entitled to a court-ordered charge on all of the Stateview Debtor Companies' assets, property and undertaking, and in the alternative, an equitable lien on all of the Stateview Debtor Companies' assets, property and undertaking;
- (n) That charge and/or equitable lien ranks:
  - (i) immediately behind the Super-priority Charges, and ahead of the claims of all other creditors;

- (ii) in the alternative, immediately behind each of the Super-priority Charges and the Mortgages, and ahead of the claims of all other creditors; and
- (iii) in the further alternative, in some other priority to the claims of ordinary unsecured creditors;
- (o) *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31 and the regulations promulgated thereunder;
- (p) Sections 11, 96, and 97 of the *Courts of Justice Act*, R.S.O. 1990, c. C.4;
- (q) Rule 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
- (r) the inherent and equitable jurisdiction of this Court; and
- (s) such further and other grounds as counsel may advise.

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

- (a) the Affidavit of Kevin Brodie, sworn August 31, 2023, and the exhibits attached thereto;
- (b) such further and other materials as counsel may advise and this Court may permit.

September 1, 2023

**Torys LLP**

79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**David Outerbridge** (LSO #: 42724V)

Tel: 416.865.7825

Email: [douterbridge@torys.com](mailto:douterbridge@torys.com)

**Adam M. Slavens** (LSO#: 54433J)

Tel: 416.865.7333

Email: [aslavens@torys.com](mailto:aslavens@torys.com)

**Jonathan Silver** (LSO#: 70137Q)

Tel: 416.865.8198

Email: [jsilver@torys.com](mailto:jsilver@torys.com)

**Mike Noel** (LSO#: 80130F)

Tel: 416.865.7378

Email: [mnoel@torys.com](mailto:mnoel@torys.com)

Lawyers for Tarion Warranty Corporation

**TO: The Attached Service List**



KINGSETT MORTGAGE CORPORATION et al.	STATEVIEW HOMES (MINU TOWNS) INC. et al.	Court File No. CV-23-00698395-00CL
DORR CAPITAL CORPORATION	HIGHVIEW BUILDING CORP INC.	CV-23-00698632-00CL
DORR CAPITAL CORPORATION	STATEVIEW HOMES (BEA TOWNS) INC.	CV-23-00698637-00CL
ATRIUM MORTGAGE INVESTMENT CORPORATION et al.	STATEVIEW HOMES (NAO TOWNS II) INC. et al.	CV-23-00698576-00CL
MERIDIAN CREDIT UNION	STATEVIEW HOMES (ELM&CO) INC.	CV-23-00699067-00CL
<b>Applicants</b>	<b>Respondents</b>	

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

Proceeding commenced at TORONTO

**NOTICE OF MOTION  
(Motion for Declaratory Relief)**

**Torys LLP**

79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**David Outerbridge** (LSO #: 42724V)

Tel: 416.865.7825

Email: [douterbridge@torys.com](mailto:douterbridge@torys.com)

**Adam M. Slavens** (LSO#: 54433J)

Tel: 416.865.7333

Email: [aslavens@torys.com](mailto:aslavens@torys.com)

**Jonathan Silver** (LSO#: 70137Q)

Tel: 416.865.8198

Email: [jsilver@torys.com](mailto:jsilver@torys.com)

**Mike Noel** (LSO#: 80130F)

Tel: 416.865.7378

Email: [mnoel@torys.com](mailto:mnoel@torys.com)

Lawyers for Tarion Warranty Corporation



TAB2

Court File No. 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**

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

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**DORR CAPITAL CORPORATION**

Applicant

- and -

**STATEVIEW HOMES (BEA TOWNS) INC.**

Respondent

---

**DORR CAPITAL CORPORATION**

Applicant

- and -

**HIGHVIEW BUILDING CORP INC.**

Respondent

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

Applicants

- and -

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

Respondents

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**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**

**AFFIDAVIT OF KEVIN BRODIE  
(sworn August 31, 2023)**

I, Kevin Brodie, of the Town of Aurora, in the Regional Municipality of York, in the Province of Ontario, MAKE OATH AND SAY:

1. I am Vice President, Underwriting at Tarion Warranty Corporation (“**Tarion**”). I have been in this position for 3.5 years. Prior to taking on this role, I served as Vice President, Operations, at Tarion for 2 years and Vice President, Warranty Services at Tarion for 3.5 years. As such, I have personal knowledge of the matters to which I depose in this affidavit. Where I do

not possess such personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.

### **Tarion Warranty Corporation**

2. Tarion is a private, not-for-profit corporation established in 1976 to protect the rights of new home purchasers and owners in Ontario and designated by the Province to administer the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31, and the regulations promulgated thereunder (collectively, the “**Warranties Act**”). The Warranties Act sets out the warranties and other protections to which new home purchasers and owners are entitled in Ontario, as well as the framework for the administration of the program.

3. Tarion’s responsibilities include:

- (a) protecting consumers when builders fail to fulfill their warranty obligations;
- (b) educating new home buyers & owners about their warranty rights and responsibilities;
- (c) providing the MyHome online portal for homeowners to manage their warranty and report defects;
- (d) facilitating the fair resolution of disputes over warranty coverage, repairs or customer service;
- (e) assessing warranty claims through on-site inspection or alternative method of investigation;
- (f) resolving claims directly with homeowners through compensation or repairs by third-party when a builder fails to address a valid claim; and

- (g) managing a guarantee fund to protect new home buyers out of which compensation for warranty claims is paid.

4. Tarion plays a central regulatory role in the Province of Ontario with respect to the provision of warranty protection to new home purchasers. The Act is consumer protection legislation, and Tarion interprets and carries out its obligations under the Act in a manner consistent with this purpose. Tarion receives no government funding and is financed entirely by fees collected in connection with new home enrolments as well as, until February 2021, fees payable in connection with builder and vendor registration and renewal. Based on Tarion's 2022 Annual Report, Tarion has 392,627 homes under warranty and in 2022, total enrolments were 73,383.

#### **Stateview Debtor Companies**

5. Stateview Homes (Minu Towns) Inc., Stateview Homes (Nao Towns) Inc., Stateview Homes (Nao Towns II) Inc., Stateview Homes (On the Mark) Inc., Stateview Homes (High Crown Estates) Inc., Highview Building Corp Inc., Stateview Homes (BEA Towns) Inc. and Stateview Homes (Elm&Co) Inc. (collectively, the "**Stateview Debtor Companies**") were real estate developers subject to the Warranties Act, with multiple projects underway, engaging in activities that are required to be conducted by vendors and builders in a manner that complies with the Warranties Act. One other company in receivership – TLSFD Taurasi Holdings Corp., owns industrial properties and is not subject to the Warranties Act.

6. The Stateview Debtor Companies and Tarion were parties to various builder and vendor agreements, as provided for under the Warranties Act. A sample builder agreement and sample vendor agreement are attached as **Exhibits "A"** and **"B"**, respectively. These agreements are

standard form agreements that were entered into by Tarion in this form with various Stateview Debtor Companies in connection with the real estate development projects that are the subject of the Receivership Proceedings (as defined below).

7. On May 2, 2023 and May 18, 2023, the Ontario Superior Court of Justice (the “**Court**”) issued receivership orders appointing KSV Restructuring Inc. as the receiver and manager (the “**Receiver**”) of the property, assets and undertaking of the Stateview Debtor Companies (such proceedings, the “**Receivership Proceedings**”). Copies of such receivership orders are attached as **Exhibits “C” to “G”**. These orders were made in connection with the applications of certain mortgagees, including that of KingSett Mortgage Corporation, that cited the Stateview Debtor Companies’ inability to pay back their outstanding indebtedness and obtain any additional financing or liquidity as reasons necessitating the commencement of such proceedings. A copy of the Affidavit of Daniel Pollack sworn April 26, 2023 without exhibits (the “**Pollack Affidavit**”) in the KingSett application, setting out this information, is attached as **Exhibit “H”**.

8. Media reports describe financial impropriety on the part of the Stateview Debtor Companies, including an admission by the President and CEO of the Stateview Debtor Companies of fraudulent conduct by the Chief Financial Officer. Selected such media reports are attached as **Exhibits “I” and “J”**.

9. The First Report of the Receiver dated May 30, 2023 (the “**First Report**”) confirms that the President and CEO of the Stateview Debtor Companies allege that the former CFO was responsible for a “cheque kiting” scheme that was the subject of a lawsuit against various Stateview Debtor Companies seeking \$37 million in damages. The First Report explains that the Stateview Debtor Companies have acknowledged certain malfeasance. Among other things, they,

as well as their President and CEO, have entered into a settlement agreement in which they acknowledged their liability arising out of the cheque kiting scheme. A copy of the First Report is attached as **Exhibit “K”**.

10. As set out in the First Report, the following real estate development projects are subject to the Receivership Proceedings:

<b>Project</b>	<b>Address</b>
Stateview Homes (Minu Towns) Inc. - Minu Towns	9940 Ninth Line, Markham
Stateview Homes (Nao Towns) Inc. - Nao Towns	5112, 5122, 5248 14th Avenue, Markham
Stateview Homes (Nao Towns II) Inc. - Nao Towns II	7810, 7822, 7834, 7846, McCowan Road, Markham
Highview Building Corp Inc. - Nashville (Highview)	89, 99 Nashville Road, Kleinberg
Stateview Homes (BEA Towns) Inc. - BEA Towns	189 Summerset Drive, Barrie
Stateview Homes (Elm&Co) Inc. - Elm	12942 York Durham Line, Stouffville
Stateview Homes (High Crown Estates) Inc. - High Crown	13151 –13161 Keele Street, King City
Stateview Homes (On the Mark) Inc. - On the Mark	16 <sup>th</sup> Avenue and Woodbine Avenue, Markham

11. In addition to creditors who have claims related to the Deposits (as defined and discussed below), the Stateview Debtor Companies have other creditors, both secured and unsecured, with claims of their own, including registered mortgages and construction liens on certain of the real property, as described in the First Report.

### **New Home Purchasers**

12. Upon entering into agreements of purchase and sale for new freehold homes, purchasers are typically required to make one or more deposit payments on specified dates pursuant to such agreements. As set out in the First Report, 765 purchasers (the “**New Home Purchasers**”) made deposit payments totaling \$77,172,000 to the Stateview Debtor Companies (the “**Deposits**”) pursuant to agreements of purchase and sale entered into with such companies, all in connection



with freehold homes. According to the First Report, the Deposits were taken by the Stateview Debtor Companies prior to the Receivership Proceedings, as follows:

<b>Project</b>	<b>Number of Purchasers</b>	<b>Deposits ('000s)</b>
Minu Towns	147	\$19,208
Nao Towns	96	7,680
Nao Towns II	76	7,617
Nashville (Highview)	4	Nil
BEA Towns	218	17,440
Elm	145	16,076
High Crown	47	4,933
On the Mark	32	4,218
	<b>765</b>	<b>\$77,172</b>

13. A sample agreement of purchase and sale entered into between a Stateview Debtor Company and a New Home Purchaser is attached as **Exhibit "L"**. Information identifying the purchaser under such agreement of purchase and sale has been redacted for privacy reasons.

14. Agreements of purchase and sale in Ontario are required to include a copy of the statutory addendum (the "Addendum") applicable to the type of home being sold. The Addendum sets out certain rights and obligations of both purchasers and vendors with respect to deposits, among other things. A copy of the Addendum applicable to the freehold homes sold by the Stateview Debtor Companies, and attached to some or all of the agreements of purchase and sale entered into by the Stateview Debtor Companies with the New Home Purchasers (including the agreement of purchase and sale attached as Exhibit L above), is attached as **Exhibit "M"**. This is a standard form document that is required to be used Province-wide by vendors in connection with the sale of such homes.

15. According to the First Report, the Deposits were not placed in an express and/or segregated escrow or trust account by the vendor or were no longer being held in an express and/or segregated escrow or trust account as at the commencement of the Receivership Proceedings. In addition, it appears that the Stateview Debtor Companies did not execute any Deposit Trust Agreements in connection with the real estate developments that are the subject of the Receivership Proceedings. A copy of Tarion's current standard form Deposit Trust Agreement is attached as **Exhibit "N"**.

16. According to the First Report, all Deposits have been spent, but the use of those funds has not yet been determined, and the Receiver is securing data and information promptly from the Stateview Debtor Companies given that the Stateview Debtor Companies have acknowledged malfeasance (see para. 7.0.1 of the First Report). The Receiver is reviewing and considering payments from the Stateview Debtor Companies to non-arm's length parties and will consider whether relief should be sought in connection with these transactions, in consultation with the affected parties (para. 4.1.1 of the First Report). According to the Pollack Affidavit (Exhibit H), some of the Deposits were intended to be used to pay development charges and other municipal charges, but were "inappropriately diverted for other purposes" (Pollack Affidavit, paras. 22-25). According to media reports, "TD [Bank] froze StateView's business accounts for the alleged fraud" and "the company has blamed [the cheque-kiting fraud] on a 'rogue' former chief financial officer" (see Exhibit J).

17. The Receiver indicated in the First Report that it was considering an investigation of the the Stateview Debtor Companies' use of the deposits, but Tarion's counsel, Jonathan Silver, has advised me that the Receiver's counsel advised them that the Receiver has not yet undertaken such an investigation as at the date of this affidavit. I have also been advised by Mr. Silver that counsel

for each of Tarion and the Receiver are working on a reservation of rights agreement in connection with such investigation to address the need for this motion to proceed on a timely basis.

18. In the event that the New Home Purchasers' agreements of purchase and sale are terminated and/or vested out pursuant to the sale process approved by the Court on June 5, 2023 (the "**Sale Process**"), the New Home Purchasers will be entitled to a refund of the Deposits from the Stateview Debtor Companies in accordance with their agreements of purchase and sale and the Warranties Act.

19. According to the First Report, there are insufficient funds available in the receivership estates of the Stateview Debtor Companies to refund in full all Deposits.

### **Claims**

20. Vendors of new homes in the Province of Ontario are required to enroll new homes under the Warranties Act, and the failure to do so is a provincial offence. Under section 14(1) of the Warranties Act, purchasers are entitled to compensation from Tarion for their deposits, up to \$100,000 for a freehold home, in the event that the vendor exercises a statutory right to rescind the agreement of purchase and sale before closing but does not refund the deposit.

21. Generally speaking, claims that are capable of being brought under the Warranties Act are first asserted by new home purchasers against the vendor of the home (i.e., the project developer). If those claims are not adequately dealt with by that vendor, purchasers may then assert those claims against Tarion. At that point, those claims are administered and determined by Tarion in accordance with the Warranties Act. Tarion is the sole regulatory body to which these responsibilities have been delegated, and Tarion has a department within its organization that is

dedicated to the administration and determination of warranty coverage and claims. This infrastructure includes dedicated personnel with the expertise and experience that is commensurate with this responsibility under the Warranties Act.

22. Pursuant to this framework, the New Home Purchasers may each make deposit claims to Tarion in an amount up to \$100,000 (though the amount of their total deposit may be greater). If those claims are determined to be valid, then Tarion will pay out on those claims and seek reimbursement from the Stateview Debtor Companies or other parties regarding such claims (including out-of-pocket amounts and applicable administration fees and other amounts that may be payable). The statutory warranties and compensation framework for new home purchasers and owners as set out in the Warranties Act provides that vendors statutorily indemnify Tarion and that Tarion is subrogated to all rights of recovery of, and can maintain a legal action in the name of (or in its own name), any New Home Purchasers to whom Tarion makes a payment out of the guarantee fund on account of their claims.

**SWORN** remotely by Kevin Brodie of the Town of Aurora, in the Regional Municipality of York, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 31, 2023, in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits  
(or as may be)

**JONATHAN SILVER**



**KEVIN BRODIE**

KINGSETT MORTGAGE CORPORATION et al.	STATEVIEW HOMES (MINU TOWNS) INC. et al.	Court File No. CV-23-00698395-00CL
DORR CAPITAL CORPORATION	HIGHVIEW BUILDING CORP INC.	CV-23-00698632-00CL
DORR CAPITAL CORPORATION	STATEVIEW HOMES (BEA TOWNS) INC.	CV-23-00698637-00CL
ATRIUM MORTGAGE INVESTMENT CORPORATION et al.	STATEVIEW HOMES (NAO TOWNS II) INC. et al.	CV-23-00698576-00CL
MERIDIAN CREDIT UNION	STATEVIEW HOMES (ELM&CO) INC.	CV-23-00699067-00CL
<b>Applicants</b>	<b>Respondents</b>	

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

Proceeding commenced at TORONTO

**AFFIDAVIT OF KEVIN BRODIE**

**Torys LLP**

79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**David Outerbridge** (LSO #: 42724V)

Tel: 416.865.7825

Email: [douterbridge@torys.com](mailto:douterbridge@torys.com)

**Adam M. Slavens** (LSO#: 54433J)

Tel: 416.865.7333

Email: [aslavens@torys.com](mailto:aslavens@torys.com)

**Jonathan Silver** (LSO#: 70137Q)

Tel: 416.865.8198

Email: [jsilver@torys.com](mailto:jsilver@torys.com)

**Mike Noel** (LSO#: 80130F)

Tel: 416.865.7378

Email: [mnoel@torys.com](mailto:mnoel@torys.com)

Lawyers for Tarion Warranty Corporation

**This is Exhibit "A" referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



---

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

**JONATHAN SILVER**

**RECITALS:**

A. Tarion is a private, not-for-profit corporation designated by regulation to administer the Ontario New Home Warranties Plan Act.

B. The Builder (as a contract home builder or a builder who has entered into an agreement with a vendor to build homes) proposes to enter into a contract to build or begin to build one or more new homes.

C. The Builder acknowledges that in order to offer to build, agree to build or begin building the builder must: be licensed under the New Home Construction Licensing Act, 2017 ; and must ensure that any homes it builds are enrolled in the Ontario New Home Warranties Plan and Protection Plan.

D. This Agreement sets out requirements in addition to regulatory conditions and provisions that govern the qualification for enrolment or enrolment for applicable homes.

**NOW THEREFORE** in consideration of the sum of \$1.00 and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Builder agrees with Tarion as follows:

## **ARTICLE 1 INTERPRETATION**

**1.1 Recitals**

1.1.1 The recitals to this Agreement form part of the Agreement and are incorporated by reference herein.

**1.2 Definitions**

1.2.1 Any term used in this Agreement that is defined in the ONHWP Act or its regulations, and that is not otherwise defined in this Agreement, has the meaning given to the term in the ONHWP Act or its regulations.

1.2.2 In this Agreement:

1.2.2.1 "**Builder**" means the Builder noted on the title page of this Agreement, including any successors and assigns, whether or not licensed under the NHCL Act;

1.2.2.2 "**Builder Obligations**" means the Builder's builder obligations as defined in Ontario Regulation 637/20 under the ONHWP Act and includes, for greater certainty, all obligations, liabilities and indebtedness of a builder to Tarion under the ONHWP Act, under an agreement with Tarion (including this Builder Agreement), under Specified Terms and Conditions, a Registrar Bulletin or Registrar Directive or otherwise, including without being limited to, obligations, liabilities and indebtedness for:

1.2.2.2.1 all payments made by Tarion in respect of a claim or potential claim,

1.2.2.2.2 the value of services provided by Tarion in respect of a claim or potential claim,

1.2.2.2.3 costs incurred by Tarion relating to a claim or potential claim, including legal fees, expert fees and other consultant fees on a full indemnity basis,

1.2.2.2.4 damages suffered by Tarion in respect of a claim or potential claim,

1.2.2.2.5 all costs incurred by Tarion in enforcing the obligations, liabilities and indebtedness of a builder to Tarion, and

1.2.2.2.6 applicable administration fees, penalties, taxes and interest on the above.

- 1.2.2.3 "**Construction Contract**" means a contract between a builder and an owner, under which the builder undertakes the construction of a new home that is subject to the ONHWP Act;
- 1.2.2.4 "**Effective Date**" means the date first written above;
- 1.2.2.5 "**Enrolment Confirmation**" means an enrolment of a home in the Plan as provided for under subsection 10.3(8) of the ONHWP Act;
- 1.2.2.6 "**Homes**" means any and all "homes" for which the Builder is the "builder" (including homes for which it enters into a Construction Contract) from and after the Effective Date until the Builder Obligations are exhausted as referenced in Section 8.1;
- 1.2.2.7 "**Indemnified Amounts**" means the amounts to be paid by the Builder under Section 4.1;
- 1.2.2.8 "**Insolvency Proceeding**" means any receivership, insolvency, proposal, bankruptcy, compromise, arrangement, reorganization, winding-up, dissolution or other similar proceeding, whether or not judicial in nature;
- 1.2.2.9 "**Material Change**" means a significant proposed, imminent, or implemented change in the business, operations, personnel, assets, liabilities, or affairs of the Builder including:
- (a) a significant change in matters relating to construction financing or the prospects for completion of construction of the Homes,
  - (b) a significant change in information about the proposed construction plans in relation to the Homes,
  - (c) a significant change in information concerning the servicing of warranties or protections for the Homes, and
  - (d) the commencement of an Insolvency Proceeding or receipt of knowledge of an imminent Insolvency Proceeding.
- 1.2.2.10 "**NHCL Act**" means the New Home Construction Licensing Act, 2017 and regulations thereunder, as amended from time to time;
- 1.2.2.11 "**ONHWP Act**" means the Ontario New Home Warranties Plan Act and regulations thereunder, as amended from time to time;
- 1.2.2.12 "**QFE Confirmation**" means a written confirmation by Tarion under subsection 10.3(7) of the ONHWP Act that a home qualifies for enrolment in the Plan;
- 1.2.2.13 "**Security**" has the meaning given to it in Section 3.8.1.
- 1.2.2.14 "**Specified Terms and Conditions**" means those terms, conditions and provisions referred to in Section 3.5.1;
- 1.2.3 In this Agreement, unless the contrary intention appears, a reference to:
- 1.2.3.1 "this Agreement", "hereto", "herein", "hereof", "hereby", "hereunder" and any similar expressions refer to this Builder Agreement as it may be supplemented, amended or restated from time to time, and not to any particular Article, section or other portion hereof;
- 1.2.3.2 an "amendment" includes an amendment, supplement, novation, re-enactment, replacement, restatement, or variation and "amend" will be construed accordingly;
- 1.2.3.3 any person includes its successors and assigns, replacements, transferees and substitutes from time to time; and
- 1.2.3.4 any document includes (without prejudice to any prohibition on amendments) all amendments (however fundamental) to that document, including any amendment providing for any increase (however great) in the amount or the provision of any facility.



### **1.3 Headings**

1.3.1 The inclusion of headings in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

### **1.4 References to Articles and Sections**

1.4.1 Whenever in this Agreement a particular Article, section or other portion thereof is referred to, such reference pertains to the particular Article, section or portion thereof contained herein, unless otherwise indicated.

### **1.5 References to Agreements and Enactments**

1.5.1 Except as otherwise specifically provided:

1.5.1.1 reference in this Agreement to any contract, agreement or any other document shall be deemed to include (i) reference to the same as supplemented, amended or restated from time to time and (ii) reference to any contract, agreement or any other document which substitutes, in whole or in part, for the same from time to time; and

1.5.1.2 reference in this Agreement to any enactment, including, without limitation, any statute, law, by-law, regulation, rule, ordinance or order, shall be deemed to include reference to such enactment as re-enacted or amended from time to time and to any enactment in substitution therefor.

### **1.6 Currency**

1.6.1 Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian currency.

### **1.7 Gender and Number**

1.7.1 In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

### **1.8 Invalidity of Provisions**

1.8.1 Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision or part hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

### **1.9 No Conditions Precedent**

1.9.1 This Agreement is effective on the Effective Date.

### **1.10 Amendment, Waiver**

1.10.1 No amendment or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **1.11 Governing Law, Attornment**

1.11.1 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 and the Builder hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of Ontario.

## **ARTICLE 2**

## REPRESENTATIONS AND WARRANTIES

### 2.1 Representations and Warranties

2.1.1 The Builder represents and warrants to Tarion as follows:

2.1.1.1 the Builder has authority to enter into this Agreement;

2.1.1.2 if the Builder is other than a natural person, it has been duly formed and is existing and correspondingly licensed or otherwise authorized to carry on business under the laws of the Province of Ontario;

2.1.1.3 this Agreement has been duly executed and delivered by and on behalf of the Builder;

2.1.1.4 this Agreement constitutes a legal, valid and binding obligation of the Builder, enforceable against it in accordance with its terms subject however to the application of general equitable principles and/or any discretionary remedies and equitable relief that may be invoked by a court of competent jurisdiction, and also subject to bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application which may limit the enforcement of creditors' rights generally;

2.1.1.5 the entering into of this Agreement and the performance by the Builder of its obligations hereunder does not and will not contravene, breach or result in any default under the constating documents or other organizational documents of the Builder or any applicable law;

2.1.1.6 no authorization, consent or approval of, or filing with or notice to, any person or official body is required in connection with the execution and delivery of this Agreement by the Builder or the performance of this Agreement by the Builder;

2.1.1.7 except as disclosed in writing to Tarion, there is no court, administrative, regulatory or similar action (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or inquiry, or any similar matter or action against or involving the Builder, whether in progress or threatened, which, if determined adversely to the Builder, would materially adversely affect its ability to perform any of the provisions of this Agreement;

2.1.1.8 the Builder will not act as a vendor under the ONHWP Act unless the Builder obtains a licence as a vendor under the NHCL Act and executes a vendor agreement with Tarion;

2.1.1.9 the Builder holds all licences, permits and government approvals needed in order to offer to construct, agree to construct and to build the Homes; and

2.1.1.10 the Builder has not omitted to disclose anything that could have a material adverse impact upon the risk assessment associated with the QFE Confirmation or Enrolment Confirmation.

### 2.2 Survival of Representations and Warranties

The representations and warranties of the Builder set forth in Section 2.1 may be relied upon by Tarion, and shall continue in full force and effect, so long as any Builder Obligations remain outstanding.

## ARTICLE 3

### AGREEMENTS OF BUILDER

#### 3.1 Builder to Preserve Status

3.1.1 The Builder acknowledges, consents and agrees:

3.1.1.1 if it is an entity other than a natural person that it shall at all times maintain and preserve its

existence as such entity; and

3.1.1.2if it is an entity other than a natural person, that it shall not change its name or change the jurisdiction of its chief executive office or principal place of business (as such terms are used in the PPSA from time to time) without written notice to Tarion at least fifteen (15) days prior to such change.

### **3.2 Builder to Furnish Information to Tarion**

3.2.1The Builder represents and warrants that the information set forth in its application(s) for QFE or Enrolment, and in other documents furnished by the Builder or its representatives to Tarion in connection with such application or otherwise, is true and correct in all material respects and does not omit to communicate any fact, circumstance or information that could reasonably affect Tarion's assessment and determination of the QFE or Enrolment, the ability of the Builder to fulfill its obligations under this Agreement and the ONHWP Act, or the risk assessment undertaken (or to be undertaken) in connection with the granting of the QFE or Enrolment.

3.2.2The Builder shall, upon request of Tarion and at the expense of the Builder, within such time as Tarion specifies, furnish Tarion with the following information and/or documentation, and Tarion shall safeguard said documentation and/or information in accordance with Tarion's Access to Information and Privacy Policy:

3.2.2.1financial information or documents, including without limitation: financial statements, statements of net worth, bank statements, driver's licenses, birth certificates, articles of incorporation, corporate bylaws, other constating and organizational documents, sample signatures, and such other financial information or documents including electronic records as Tarion may reasonably require for the purpose of processing the QFE or Enrolment.

3.2.2.2copies of construction contracts, insurance contracts, budgets, workplans, business plans, project schedules, construction reports, or any other records (electronic or otherwise) relating to the Homes.

3.2.2.3information and documents, including updates and supplements to that referred to above, for the purpose of reviewing the status of the QFE or Enrolment, and consideration of risk for Tarion and the guarantee fund provided for under the ONHWP Act in respect of the Homes.

3.2.2.4any other information or documents Tarion may reasonably require from time to time, including updates and supplements to any information previously provided to Tarion.

3.2.3The Builder shall provide Tarion with information satisfactory to Tarion that the Builder and any other interested persons are qualified and suited for the work they will do in connection with the Homes having regard to prior conduct, including history of claims made, claims resolved, claims paid by Tarion, chargeable conciliations and after-sales service.

3.2.4The Builder shall, upon request of Tarion, at any time or times provide a written update confirming the identity of interested persons, principals, officers, directors, employees, persons providing financial contribution and persons providing guarantees of the Builder's obligations and promptly advise Tarion when any of those persons who are significant to the Builder's operations are no longer employed or associated with the Builder.

3.2.5The Builder shall make representatives of the Builder available to Tarion for interviews during normal business hours, and provide reasonable access to information, documents, things, books, records (including electronic records), plans and other materials, for the purpose of confirming

matters relating to the Builder Obligations.

3.2.6 The Builder shall, from time to time, at the Builder's expense, furnish to Tarion any information, documents, things, and records relating to the eligibility of the Homes for warranty coverage, work done or other steps taken to resolve warranted claims and otherwise the status of warranty coverage of the Homes and authorizes Tarion to share such information with:

3.2.6.1 The purchasers of such Homes who have entered into a purchase agreement with the vendor of the Homes.

3.2.6.2 The owners of such Homes who have entered into a Construction Contract with the Builder.

3.2.6.3 The owners of such Homes to whom a vendor has transferred title to the Home.

3.2.7 The Builder shall permit representatives of Tarion to inspect a Home that is the subject of an application for QFE or Enrolment at any time after the Builder has commenced construction.

### **3.3 Change in Circumstance**

3.3.1 The Builder shall, on request, advise Tarion of any incident involving the Builder that involves fraud or misappropriation of funds.

3.3.2 The Builder shall provide prompt written notice to Tarion if there is a Material Change.

3.3.3 The Builder shall provide prompt written notice to Tarion of any proposal: (i) to reorganize, amalgamate, merge, consolidate or otherwise enter into any form of business combination with any person; and/or (ii) to liquidate, dissolve or wind up or take any steps or proceedings in connection therewith.

### **3.4 Consent and Authorization Regarding Credit Checks**

3.4.1 The Builder hereby authorizes and consents to Tarion procuring and utilizing, from time to time, credit information in respect of the Builder, its affiliates and guarantors.

### **3.5 Conditions; Specified Terms and Conditions**

3.5.1 If Tarion's notice of proposal to approve a QFE Confirmation or Enrolment Confirmation includes from time to time any terms, conditions or provisions with which the Builder must comply ("Specified Terms and Conditions") then, unless the Specified Terms of Conditions are successfully appealed under section 10.6 of the ONHWP Act the Builder acknowledges and agrees that the Specified Terms and Conditions are incorporated by reference herein and are binding as if set out in full in this Agreement.

3.5.2 The Builder agrees to duly and diligently perform and/or comply with the Specified Terms and Conditions.

3.5.3 The Builder agrees to use reasonable commercial efforts to satisfy any conditions set out in a QFE Confirmation and included pursuant to paragraphs 10.3(5)(b) and 10.3(6)(b) of the ONHWP Act.

### **3.6 Due Performance of Obligations**

3.6.1 The Builder shall duly and diligently perform:

3.6.1.1 all of the Builder Obligations,

3.6.1.2 its obligations to owners under Construction Contracts for the Homes,

3.6.1.3 its obligations under any construction contract with a vendor of new homes,

3.6.1.4 its obligations to owners under the ONHWP Act and NHCL Act, including obligations to attach a Warranty Information Sheet or other required supplement to Construction Contracts, conduct proper pre-delivery inspections, address deposit monies, and service and attend to

statutory warranties and protections in accordance with applicable law and relevant contractual provisions,

3.6.1.5 all obligations under the NHCL Act, Condominium Act and Building Code Act, and all regulations under those Acts, insofar as such obligations relate in any way to Tarion, and

3.6.1.6 all obligations under other applicable law insofar as such obligations relate in any way to Tarion.

3.6.2 Following a risk-based inspection by Tarion of a Home, Tarion may issue to the Builder a list of deficiencies in the construction of a Home that must be resolved to bring the Home into compliance with the ONHWP Act. The Builder upon receipt shall resolve the deficiencies according to its obligations under the ONHWP Act within a reasonable period of time, failing which the unresolved items will be treated as warranty claims and any rights to challenge the assessment of the deficiencies as determined by Tarion (e.g. Builder Arbitration Forum) and possible sanctions for the Builder (e.g. chargeable conciliation) will apply.

3.6.3 The Builder shall comply with all conditions applicable to the Homes including the requirement that the Builder,

3.6.3.1 shall not commence to construct Homes in excess of the maximum number permitted to be constructed,

3.6.3.2 shall not commence to construct homes of any class for which the construction is restricted,

3.6.3.3 shall replace one form of Security previously provided to Tarion with another, as required,

3.6.3.4 shall provide Security to Tarion in addition to that already provided, in the amount and in the form determined by Tarion, and

3.6.3.5 shall promptly fulfil any term and condition imposed upon the Builder by Tarion in connection with the release by Tarion of the whole or any part of any Security provided to Tarion by the Builder.

3.6.4 If the Builder acts as a vendor without executing a vendor agreement with Tarion, then the Builder shall indemnify and save Tarion harmless from and against all losses, claims, costs, damages and/or liabilities whatsoever heretofore or hereafter suffered or incurred by Tarion resulting from, or arising out of, any failure to perform or fulfil the obligations that the Builder would have been obliged to fulfil had the Builder executed a vendor agreement with Tarion.

3.6.5 The Builder agrees to have the appropriate persons who are associated persons of the Builder complete written or oral interviews, tests or exams with respect to any matters that are relevant to the Homes and the construction, financing, completion and after-sales service of the Homes.

3.6.6 The Builder shall, on request, furnish to Tarion proof that it has complied with its obligation to attach a Warranty Information Sheet to Construction Contracts and collect and furnish Tarion with owner contact information pursuant to Ontario Regulation 892

3.6.7 The Builder shall preserve all assignable rights and claims that the Builder may have against manufacturers, suppliers, vendors, builders, contractors, sub-contractors and others in respect of any breach of warranty or other defect in respect of the Homes, and shall, forthwith upon the request of Tarion, assign and transfer all such rights and claims to and in favour of Tarion, or as it may direct, and shall execute and deliver such assignments and other instruments and do such acts and things as Tarion may reasonably require in order to enable Tarion or its designate to

prosecute and enforce such rights and claims as fully and effectually as the same could be prosecuted and enforced by the Builder subject however to the overriding provisions of any assignment of such rights, claims and/or interests involving any manufacturers, suppliers, builders, contractors and/or sub-contractors heretofore or hereafter made by the Vendor to and in favour of the lender(s) providing construction financing for the Homes, and which assignment to the construction lender(s) shall take priority over any such assignment by the Vendor to and in favour of Tarion, regardless of when same have been respectively created [and Tarion shall correspondingly execute a financing change statement under the PPSA to evidence and confirm said postponement and subordination to and in favour of the construction lender(s)], and following any such assignment to the construction lender Tarion shall not pursue nor enforce any rights and/or claims under or pursuant to any such assignment so granted by the Vendor to Tarion whatsoever.

3.6.8 The Builder shall co-operate with Tarion in connection with requests for construction status, and inspections under the ONHWP Act.

3.6.9 The Builder shall upon request pay all such fees as are permitted under the ONHWP Act and communicated in writing to the Builder in any manner, including in a Registrar Bulletin or other advisory.

3.6.10 The Builder shall pay to Tarion an administration fee equivalent to fifteen per cent (15%) (or such other per cent as may be stipulated from time to time by regulation under the ONHWP Act) of each amount paid out by Tarion to any owner(s) or third party contractor(s)/consultant(s) in respect of the Builder Obligations.

3.6.11 The Builder shall pay to Tarion interest on any amounts owed to Tarion by the Builder, due to any non-compliance with the Builder Obligations, which interest shall accrue at the rate of 1.5 per cent (1.5%) per month, calculated daily (or such other interest rate as may be stipulated from time to time by regulation under the ONHWP Act). The Builder shall make the interest payment referenced above on the first day of each month following the date of default in repaying the amounts owed until the amounts owed are repaid in full.

3.6.12 The Builder covenants and agrees that it shall not advertise or publish an QFE Confirmation or Enrolment Confirmation that the Builder does not have (or that does not exist). The Builder acknowledges and agrees that a breach of this provision shall entitle the Registrar to obtain and enforce a court order to enjoin and/or restrain such activities.

3.6.13 The Builder acknowledges and agrees that any QFE Confirmation or Enrolment Confirmation given to the Builder is not assignable or transferable in whole or in part, whether by way of power of attorney, declaration of trust, sale, assignment, or otherwise. Any amalgamation or other corporate reorganization that would vest the Builder's assets in a new or successor entity by operation of law shall be subject to the prior written consent of Tarion, such consent not to be unreasonably withheld or delayed. Such consent may require an assumption agreement acceptable to the parties each acting reasonable. The Builder shall not state or hold out that a home has QFE Confirmation or Enrolment Confirmation if it does not.

### **3.7 Use of Information**

3.7.1 The Builder authorizes Tarion to: (a) report on the Builder's performance and/or compliance status relating to homes in respect of which the Builder acted as Builder (or that were enrolled by

the Builder) in any publication whether print, electronic or otherwise; (b) disclose information to the general public concerning the Builder's ability to build homes and carry out any requisite after sales service and warranty work, where Tarion believes it advisable to do so in furtherance of the ONHWP Act; and (c) disclose as necessary any information required by law and in particular required to support the Ontario Builder Directory (or any successor directory) maintained under NHCL Act..

3.7.2 The Builder authorizes Tarion to provide the name and contact information of the Builder from time to time, and to anyone desiring to contact the Builder.

3.7.3 The Builder acknowledges that Tarion will collect, use, disclose and retain information obtained from the Builder in accordance with Tarion's Access to Information and Privacy Policy published on tarion.com.

### **3.8 Security**

3.8.1 The Builder shall, upon request of Tarion at any time and from time to time, and at the expense of the Builder:

3.8.1.1 furnish Tarion with such cash collateral, letters of credit, surety bonds, deposit trust agreements, guarantees, indemnities, covenants not to encumber, undertakings, declarations, collateral charges, and/or other security or other assurances as Tarion may require to secure and assure the performance of the Builder Obligations, and to address risk for Tarion and the guarantee fund under the ONHWP Act ("Security"): (a) in respect of the Homes; and (b) in the aggregate having regard to the obligations owed to Tarion and owners in respect of all homes of the Builder and its affiliates constructed under the ONHWP Act; and

3.8.1.2 supplement, increase, modify, and/or update the said Security and assurances.

3.8.2 If the results of an examination or interview by Tarion or an inspection by Tarion demonstrate that the Builder does not have the necessary skills, qualifications, technical expertise or experience to build the Homes that are the subject of the application for QFE or Enrolment to which this Agreement relates, Tarion may require the Builder or builder to,

3.8.2.1 post additional Security or assurances with Tarion, or

3.8.2.2 successfully complete a course of study that Tarion specifies.

3.8.3 The Builder agrees that unless the Security instrument or other written statement from Tarion states otherwise (e.g. project specific or limited to defined Homes) then any Security provided to Tarion by or on behalf of the Builder shall secure Builder Obligations of the Builder in respect of the: (i) Homes; and (ii) any other homes hereafter constructed by the Builder unless specifically released by Tarion in writing. Despite the foregoing, in connection with an Application for QFE Confirmation or Enrolment Confirmation in respect of a condominium project, the Security provided in connection with the condominium project shall be limited to the such condominium project (including both residential units and common elements) unless the Security instrument provides otherwise.

3.8.4 For clarity, the Builder agrees that unless the Security instrument or other written statement from Tarion states otherwise then any Security provided to Tarion by or on behalf of the Builder and expressly described as blanket security (as opposed to expressly described as project-specific security) shall secure the Builder Obligations of: (i) the Builder in respect of the Homes; and (ii) any other associated persons of the Builder unless and until specifically released by Tarion

in writing.

3.8.5 The Builder agrees that if the Security is in the form of cash collateral then any monies paid to Tarion may be held in the name and on account of Tarion as Security according to Section 3.8 and the Builder hereby assigns, transfers and sets over a security interest in such sums to and in favour of Tarion as general and continuing collateral security for the Builder Obligations in accordance with subsections 3.8.3 and 3.8.4. The Builder consents to Tarion taking any steps it deems necessary to better assure such security interest. If the Security so provided by the Builder is not expressly described as blanket security, then any financing statement so registered by or on behalf of Tarion in connection therewith shall specifically confirm that the Security (and any and all proceeds derived therefrom) are related to the specific project or the specific Homes for which the Security was originally provided by the Builder.

3.8.6 The Builder agrees not to seek injunctive or other relief to prevent Tarion from drawing upon, using, demanding upon or otherwise realizing upon the Security or assurances provided. In the event the Builder seeks such relief, this provision may be relied upon by Tarion as a complete defence or response in order to defeat the seeking of such relief.

3.8.7 The Builder has no right to assert set-off as a basis to prevent Tarion from drawing upon, using, demanding upon or otherwise realizing upon the Security or assurances provided. Any claim by the Builder against Tarion shall be asserted as a claim for damages only.

### **3.9 Use of Tarion Forms**

3.9.1 The Warranty Information Sheet referred to in Regulation 892 shall be attached to every Construction Contract entered into on or after February 1, 2021.

3.9.2 The vendor of a project as applicable shall ensure every agreement of purchase and sale shall have the appropriate Addendum attached to it in accordance with the requirements set out in Regulation 892.

3.9.3 The Builder's use of the Warranty Information Sheet shall be subject to the following requirements and terms of use. Howsoever the builder obtains such forms Builder shall be responsible for the following requirements and terms of use:

3.9.3.1 The source document shall be in the forms supplied by Tarion on its website - [tarion.com](http://tarion.com).

3.9.3.2 The Builder shall not amend or alter the format, logos or text of the Warranty Information Sheet.

3.9.3.3 The Warranty Information Sheet is to be retained as a separately identifiable document.

3.9.3.4 The Builder shall not modify or amend the Warranty Information Sheet in any way and shall not create any derivative works that incorporate or make use of the Warranty Information Sheet in whole or in part, without the express prior written consent of Tarion.

3.9.3.5 The Builder shall be responsible for any improper changes whatsoever made to the Warranty Information Sheet before it is attached to the Construction Contract.

3.9.3.6 The Warranty Information Sheet and template may be changed from time to time by government directive or by Tarion, and Tarion's sole obligation is to advise the Builder is to send an advisory to the new home building industry and post the new forms on its website. Tarion will use best efforts to provide at least 90 days prior notice of the introduction of a new template, recognizing that the time may be less in extraordinary circumstances but in no event (other than in circumstances beyond Tarion's reasonable control) shall there be less than 30 days prior notice.



## **ARTICLE 4 INDEMNITY**

### **4.1 Indemnity**

4.1.1 The Builder shall fully indemnify and save Tarion harmless from and against any losses, costs, claims, damages and/or liabilities which may arise resulting from or by virtue of:

4.1.1.1 the failure of the Builder to perform or fulfill any of the Builder Obligations;

4.1.1.2 the performance or fulfillment, by Tarion in its sole judgment, of any of the Builder Obligations; and/or

4.1.1.3 the payment or satisfaction, by Tarion in its sole judgment, in whole or in part of any claim asserted by any party pursuant to the ONHWP Act in respect of, or otherwise related in any manner to, any Home which the Builder offered to build, agreed to build or built.

Provided that the Builder shall have no obligation under this Agreement to indemnify Tarion for any losses or costs incurred related to matters that are not warranted or compensable by the Builder under the ONHWP Act, but this exclusion does not affect Tarion's subrogation rights, or rights under an assignment of any cause of action from another person.

(all of the foregoing collectively, the "Indemnified Amounts").

### **4.2 Continuing Indemnity**

4.2.1 The indemnity herein shall be a continuing indemnity for the payment of all Indemnified Amounts and shall apply to and secure any ultimate balance thereof due or remaining unpaid to Tarion. The indemnity herein shall not be considered as wholly or partially satisfied by the intermediate payment or satisfaction at any time of all or any part of the Indemnified Amounts. All payments received by Tarion from the Builder or any other person in respect of the Indemnified Amounts shall be applied as payments in gross without any right on the part of the Builder to claim the benefit of any such payments until payment in full of all Indemnified Amounts.

### **4.3 Reinstatement**

4.3.1 The indemnity herein shall be reinstated if at any time any payment of any Indemnified Amounts is rescinded or must otherwise be returned by Tarion upon any Insolvency Proceeding of or affecting the Builder or for any other reason whatsoever, all as though such payment had not been made. Tarion may concede or compromise any claim that such payment ought to be rescinded or otherwise returned, without discharging, diminishing or in any way affecting the liability of the Builder hereunder or the effect of this Section.

## **ARTICLE 5 ENFORCEMENT**

### **5.1 Demand**

5.1.1 Upon the occurrence and during the continuance of a breach of this Agreement, the Builder shall, on demand being made by Tarion, forthwith pay to Tarion, or perform or cause the

5.1.2 performance of all Builder Obligations for which such demand was made. All Indemnified Amounts shall be payable by the Builder to Tarion, forthwith upon demand being made by Tarion.

### **5.2 Right to Immediate Payment or Performance**

5.2.1 Tarion shall not be bound to make any demand on or to seek or exhaust its recourse against the Builder or any other person or to realize on any Security or assurances held by Tarion in respect of the Indemnified Amounts before being entitled to demand payment from or performance by the Builder and enforce its rights under this Agreement and the Builder hereby renounces all benefits of discussion and division.

### **5.3 Tarion's Statement**

5.3.1 A statement in writing of Tarion as to the amount of the Builder Obligations, the Indemnified Amounts, and all other amounts payable hereunder shall be binding upon the Builder and conclusive against it in the absence of manifest error.

## **ARTICLE 6 APPROPRIATION AND SET-OFF**

### **6.1 Appropriation by Tarion**

6.1.1 Tarion shall be at liberty to appropriate or to refrain from appropriating any payment made by, or monies received by Tarion from, the Builder or others to any portion of the Indemnified Amounts and from time to time to revoke or alter any such appropriation, all as Tarion may from time to time in its sole and absolute discretion determine but excluding for greater certainty the HCRA Licensee fees if collected by Tarion.

### **6.2 Set-Off by Tarion**

6.2.1 Tarion may, at any time and from time to time, upon prior notice where practicable set off, appropriate and apply:

6.2.1.1 any and all Security or monies furnished by the Builder and held by Tarion in any capacity, general or special, matured or unmatured, and/or

6.2.1.2 any indebtedness or liability of Tarion to the Builder, matured or unmatured, against and on account of the Builder's liability hereunder in such order of application as Tarion may from time to time elect in its sole and absolute discretion. If the amounts being set-off are not payable in the same currency, Tarion may convert either amount into the other currency on the day as of which that set-off is being effected, or if that day is not a business day then on the business day preceding the day as of which that set-off is being effected.

### **6.3 No Set-Off by Builder**

6.3.1 All amounts payable by the Builder under this Agreement shall be paid without set-off or counterclaim and without any deduction or withholding whatsoever unless and to the extent that the Builder shall be prohibited by law from doing so, in which case the Builder shall pay to Tarion such additional amount as shall be necessary to ensure that Tarion receives the full amount it would have received if no such deduction or withholding had been made.

## **ARTICLE 7 PROTECTION OF TARION**

### **7.1 Defects in Creation of Builder Obligations do Not Undermine the Indemnity**

7.1.1 Tarion shall not be concerned to see or required to enquire into the capacity and powers of the Builder or, as applicable, its directors, officers, partners, employees, or agents acting or

purporting to act on its behalf. All obligations, liabilities and indebtedness purporting to be incurred by the Builder in favour of Tarion shall be deemed to form part of the Builder Obligations and/or Indemnified Amounts even though the Builder may not be a legal entity or the incurring of such obligations, liabilities or indebtedness was irregularly, defectively or informally effected or in excess of the capacity or powers of the Builder or its directors, officers, partners, employees or agents and notwithstanding that Tarion has specific notice of the capacity and powers of the Builder or its directors, officers, partners, employees or agents.

## **7.2 Liability of the Builder is Absolute**

7.2.1 The liability of the Builder hereunder shall be absolute and unconditional and shall not be discharged, diminished or in any way affected by:

7.2.1.1 any amalgamation, merger, consolidation, or reorganization of the Builder;

7.2.1.2 any change in the name, business, objects, capital structure, ownership, constating documents, by-laws, resolutions, licensing status or licence number of the Builder, including without limitation any transaction (whether by way of transfer, sale or otherwise) whereby all or any part of the undertaking, property and assets of the Builder becomes the property of any other person;

7.2.1.3 if applicable, any change in the membership of the Builder due to the removal or introduction of one or more partners;

7.2.1.4 any Insolvency Proceeding of or affecting the Builder or any other person and any court orders made or action taken by the Builder or any other person under or in connection with those Insolvency Proceeding;

7.2.1.5 any defence, counterclaim or right of set-off available to the Builder;

7.2.1.6 by Tarion's actions or omissions, including: non-compliance with any of its agreements, with requirements of the ONHWP Act, or failure to give notice; and/or

7.2.1.7 any other circumstance which might otherwise constitute in whole or in part a defence available to, or a discharge of, the Builder or any other person in respect of the Indemnified Amounts (otherwise than by reason of the payment of those Indemnified Amounts to Tarion).

## **7.3 Dealings by Tarion do Not Change the Indemnity**

7.3.1 Tarion may from time to time in its sole and absolute discretion without discharging, diminishing or in any way affecting the liability of the Builder hereunder:

7.3.1.1 make or continue to make any accommodation available to the Builder constituting or relating to the Builder Obligations or the Indemnified Amounts;

7.3.1.2 permit any increase or decrease, however significant, of the Builder Obligations or otherwise supplement, amend, restate or substitute, in whole or in part, however significant, the Builder Obligations or any other agreement relating to any of the foregoing or, in whole or in part, terminate the availability of any agreement relating to, or demand repayment of any Builder Obligations; enforce or take action under or abstain from enforcing or taking action under the ONHWP Act, this Agreement or any other agreement;

7.3.1.3 receive, give up, subordinate, release or discharge any Security; supplement, amend, restate, substitute, renew, abstain from renewing, perfect or abstain from perfecting or maintaining the perfection of any Security; enforce, take action under or realize in any manner or abstain from enforcing, taking action under or realizing any Security; deal with or abstain from dealing with all or

any part of the undertaking, property and assets covered by any Security or allow or abstain from allowing the Builder or other persons to deal with all or any part of such undertaking, property and assets;

7.3.1.4 renew all or any part of the Builder Obligations or grant extensions of time or any other indulgences to the Builder or to any other person liable directly or as surety for all or any part of the Builder Obligations;

7.3.1.5 accept or make any compositions or arrangements with or release, discharge or otherwise deal with or abstain from dealing with the Builder or any other person liable directly or as surety for all or any part of the Builder Obligations;

7.3.1.6 in whole or in part prove or abstain from proving a claim of Tarion in any Insolvency Proceeding of or affecting the Builder; and

7.3.1.7 agree with the Builder or any other person liable directly or as surety for all or any part of the Builder Obligations and/or Indemnified Amounts to do anything described in this Section 7.3; whether or not any of the matters described in this Section 7.3 occur alone or in connection with one or more other such matters.

7.3.2 No loss of or in respect of any Security or additional covenant relating to the Builder Obligations, the Indemnified Amounts, or any part thereof, whether occasioned through the fault of Tarion or otherwise, shall discharge, diminish or in any way affect the liability of the Builder hereunder. Neither Tarion nor any of its directors, officers, employees or agents, or any receiver or receiver-manager appointed by it or by a court, shall have any liability, whether in tort, contract or otherwise, for any neglect or any act taken or omitted to be taken by Tarion or by any of such other persons (other than its own negligence or willful misconduct) in connection with the Builder Obligations and/or Indemnified Amounts or any part thereof, or any Security or other covenant relating to the Builder Obligations or any part thereof including without limitation any of the matters described above in this Section 7.3.

#### **7.4 No Waiver**

7.4.1 No delay on the part of Tarion in the exercise of any right, power or remedy hereunder or otherwise shall operate as a waiver thereof, and no single or partial exercise by Tarion of any right, power or remedy shall preclude other or further exercise thereof or the exercise of any other right, power or remedy. No action of Tarion permitted hereunder shall in any way impair or affect its rights, powers or remedies under this Agreement.

#### **7.5 No Personal Liability**

The protections against personal liability set out in section 2.10 of the ONHWP Act are incorporated by reference and apply with necessary modifications to any matters in connection with this Agreement.

## **ARTICLE 8 TERM AND TERMINATION**

### **8.1 Term**

8.1.1 This Agreement shall be in full force and effect from the Effective Date until all Builder Obligations have been duly discharged and all Indemnified Amounts have been paid to Tarion. None of the expiry, suspension or revocation of a licence in respect of the vendor or builder nor

the refusal, suspension or revocation of a QFE Confirmation or Enrolment Confirmation will affect the validity or enforceability of the Agreement.

## **ARTICLE 9 MISCELLANEOUS**

### **9.1 Payment of Costs and Expenses**

9.1.1 The Builder shall pay to Tarion on demand all reasonable costs and expenses (on a full indemnity basis) of Tarion, its officers, employees and agents and any receiver or receiver-manager appointed by it or by a court in connection with this Agreement, including, without limitation, in connection with:

9.1.1.1 any actual or proposed amendment or modification hereof or any waiver hereunder and all instruments supplemental or ancillary thereto; and

9.1.1.2 the defence, establishment, protection or enforcement of any of the rights or remedies of Tarion under this Agreement including, without limitation, all costs and expenses of establishing the validity and enforceability of, or of collection of amounts owing under this Agreement; and further including, without limitation, all of the reasonable fees, expenses and disbursements of Tarion's lawyers, on a full indemnity basis, incurred in connection therewith and all sales or value-added taxes payable by Tarion (whether refundable or not) on all such costs and expenses.

### **9.2 Additional Security**

9.2.1 This Agreement shall be in addition to, shall not in any way be prejudiced by, and shall not prejudice: (i) any other Security now or hereafter held by Tarion; and (ii) the endorsement by the Builder of any notes or other documents, and Tarion's rights under this Agreement shall not be merged in any such other Security or endorsement.

### **9.3 Entire Agreement**

9.3.1 This Agreement cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between Tarion and the Builder with respect to the subject matter hereof except as expressly set forth herein and in the legislation, agreements and other documents that set out the Builder Obligations.

### **9.4 Successors and Assigns**

9.4.1 This Agreement shall be binding on the Builder and its successors and shall enure to the benefit of Tarion and its successors and assigns. This Agreement may be assignable by Tarion but the Builder may assert as against a successor or assign any set-off, counter-claim or equities between the Builder and Tarion, and any claim or defence that the Builder has against Tarion. The Builder may not assign its obligations under this Agreement.

### **9.5 Notices**

9.5.1 All notices and other communications under this Agreement are to be in writing; are to be delivered by hand, by courier, registered mail or email; will be deemed to have been received on the business day following the date of delivery; and are to be addressed to the party at the address as set forth on the title page of this Agreement. Each party may establish a new address including email address from time to time by written notice to the other given in accordance with this Section, provided however, that no such change of address will be effective until written notice

thereof is actually received by the party to whom such change of address is sent.

9.5.2 The Builder hereby consents and reaffirms its agreement to receive and accept service of all Notices of Proposal of conditions of Qualification for Enrolment, and all Notices of Proposal of conditions of Enrolment that are issued by Tarion pursuant to section 10.6 of the ONHWP Act, in an electronic document format via BuilderLink? or any successor portal maintained by Tarion

### **9.6 Further Assurances**

9.6.1 The Builder must at its own expense from time to time do, execute and deliver, or cause to be done, executed and delivered, all such financing statements, further assignments, documents, acts, matters and things as may be reasonably requested by Tarion for the purpose of giving effect to this Agreement or for the purpose of establishing compliance with the representations, warranties and covenants herein contained.

### **9.7 Electronic Signing and Delivery**

9.7.1 This document may be executed by any of the parties in an electronic format, by way of an electronic signature in accordance with the provisions of the Electronic Commerce Act, 2000, S.O. 2000, as amended, including an electronic signature manifested or undertaken by or through DocuSign, E-Sign or other electronic signing platform or application, on the express understanding and agreement that: (a) as and when this document is so executed by way of an electronic signature, it shall thereupon be deemed to be valid, binding and enforceable upon the party or parties so executing the document electronically; and (b) if and when any of the parties execute this document by or through an electronic signing format or application, then such party or parties shall be obliged to forthwith provide the other party or parties with a certificate of completion produced or issued by the signing platform or application or any similar certificate issued by other secure electronic platform or application which confirms, verifies and/or validates the electronic signature of the party or parties so executing this document electronically.

9.7.2 A photocopy or a scanned and e-mail copy of this executed document may be relied upon (and correspondingly enforced) to the same extent as if it were an original hard copy executed version.

### **9.8 Electronic Delivery**

9.8.1 Delivery of the executed Agreement by electronic medium shall be as effective as delivery of a manually executed copy of this Agreement.

## **ARTICLE 10 UNDERSTANDING OF OBLIGATIONS**

### **10.1 Independent Legal Advice**

10.1.1 The Builder acknowledges having received independent legal advice with respect to this Agreement or having expressly chosen not to do so.

### **10.2 Review of Materials**

10.2.1 The Builder acknowledges and confirms that the Builder and its legal counsel have been given an opportunity by Tarion to review the ONHWP Act and the Registrar Bulletins issued by Tarion to the date hereof (as well as any agreement(s) between the Builder and Tarion in existence as of the date hereof).

### **10.3 Review and Understand the Agreement**

10.3.1 The Builder acknowledges and confirms having read and understood the terms and provisions hereof before having executed this Agreement.

**10.4 Tarion Bound**

10.4.1 Tarion is bound by the terms of this Agreement as of the Effective Date provided there have been no changes to the form and content of this Agreement as evidenced by Tarion's execution below.

**TARION WARRANTY CORPORATION**

Per: "Peter Balasubramanian" (signed)

Name: Peter Balasubramanian

Title: President and Chief Executive Officer

**This is Exhibit “B” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



---

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

**JONATHAN SILVER**



**RECITALS:**

A. Tarion is a private, not-for-profit corporation designated by regulation to administer the Ontario New Home Warranties Plan Act.

B. The Vendor proposes to offer to sell, agree to sell or sell one or more new homes.

C. The Vendor acknowledges that in order to offer to sell, agree to sell or sell new homes the Vendor must: be licensed under the New Home Construction Licensing Act, 2017; and must ensure that any such homes are qualified to be enrolled and/or enrolled in the Ontario New Home Warranties and Protection Plan.

D. This Agreement sets out requirements in addition to regulatory conditions and provisions that govern the qualification for enrolment or enrolment for applicable homes.

**NOW THEREFORE** in consideration of the sum of \$1.00 and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Vendor agrees with Tarion as follows:

## **ARTICLE 1 INTERPRETATION**

**1.1 Recitals**

1.1.1 The recitals to this Agreement form part of the Agreement and are incorporated by reference herein.

**1.2 Definitions**

1.2.1 Any term used in this Agreement that is defined in the ONHWP Act or its regulations, and that is not otherwise defined in this Agreement, has the meaning given to the term in the ONHWP Act or its regulations.

1.2.2 In this Agreement:

1.2.2.1 "**builder agreement**" means a builder agreement as defined in Ontario Regulation 637/20 under the ONHWP Act (Builder Agreements and Vendor Agreements);

1.2.2.2 "**Construction Contract**" means a contract between a builder and an owner, under which the builder undertakes the construction of a new home that is subject to the ONHWP Act;

1.2.2.3 "**Effective Date**" means the date first written above;

1.2.2.4 "**Enrolment Confirmation**" means an enrolment of a home in the Plan as provided for under subsection 10.3(8) of the ONHWP Act;

1.2.2.5 "**Homes**" any and all "homes" for which the Vendor is a "vendor" (including homes it offers to sell or agrees to sell) from and after the Effective Date until the Vendor Obligations are exhausted as referenced in Section 8.1;

1.2.2.6 "**Indemnified Amounts**" means the amounts to be paid by the Vendor under Section 4.1;

1.2.2.7 "**Insolvency Proceeding**" means any receivership, insolvency, proposal, bankruptcy, compromise, arrangement, reorganization, winding-up, dissolution or other similar proceeding, whether or not judicial in nature;

1.2.2.8 "**Material Change**" means a significant proposed, imminent, or implemented change in the business, operations, personnel, assets, liabilities or affairs of the Vendor including:

(a) a significant change in matters relating to sales or transfers, construction financing or the

prospects for completion of construction and sales or transfers of the Homes,

(b) a significant change in information about the proposed construction plans in relation to the Homes,

(c) a significant change in information concerning the servicing of warranties or protections for the Homes, and

(d) the commencement of an Insolvency Proceeding or receipt of knowledge of an imminent Insolvency Proceeding.

1.2.2.9 "**NHCL Act**" means the New Home Construction Licensing Act, 2017 and regulations thereunder, as amended from time to time;

1.2.2.10 "**ONHWP Act**" means the Ontario New Home Warranties Plan Act and regulations thereunder, as amended from time to time;

1.2.2.11 "**QFE Confirmation**" means a written confirmation by Tarion under subsection 10.3(7) of the ONHWP Act that a home qualifies for enrolment in the Plan;

1.2.2.12 "**Security**" has the meaning given to it in Section 3.8.1;

1.2.2.13 "**Specified Terms and Conditions**" means those terms, conditions and provisions referred to in Section 3.5.1;

1.2.2.14 "**Vendor**" means the Vendor noted on the title page of this Agreement, including any successors and assigns, whether or not licensed under the NHCL Act;

1.2.2.15 "**Vendor Obligations**" means the Vendor's vendor obligations as defined in Ontario Regulation 637/20 under the ONHWP Act and includes, for greater certainty, all obligations, liabilities and indebtedness of a vendor to Tarion under the ONHWP Act, under an agreement with Tarion (including this Vendor Agreement), under Specified Terms and Conditions, a Registrar Bulletin or Registrar Directive or otherwise, including without being limited to, obligations, liabilities and indebtedness for:

1.2.2.15.1 all payments made by Tarion in respect of a claim or potential claim,

1.2.2.15.2 the value of services provided by Tarion in respect of a claim or potential claim,

1.2.2.15.3 costs incurred by Tarion relating to a claim or potential claim, including legal fees, expert fees and other consultant fees on a full indemnity basis,

1.2.2.15.4 damages suffered by Tarion in respect of a claim or potential claim,

1.2.2.15.5 all costs incurred by Tarion in enforcing the obligations, liabilities and indebtedness of a vendor to Tarion, and

1.2.2.15.6 applicable administration fees, penalties, taxes and interest on the above.

1.2.3 In this Agreement, unless the contrary intention appears, a reference to:

1.2.3.1 "this Agreement", "hereto", "herein", "hereof", "hereby", "hereunder" and any similar expressions refer to this Vendor Agreement as it may be supplemented, amended or restated from time to time, and not to any particular Article, section or other portion hereof;

1.2.3.2 an "amendment" includes an amendment, supplement, novation, re-enactment, replacement, restatement or variation and "amend" will be construed accordingly;

1.2.3.3 any person includes its successors and assigns, replacements, transferees and substitutes from time to time; and

1.2.3.4 any document includes (without prejudice to any prohibition on amendments) all amendments (however fundamental) to that document, including any amendment providing for

any increase (however great) in the amount or the provision of any facility.

### **1.3 Headings**

1.3.1 The inclusion of headings in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

### **1.4 References to Articles and Sections**

1.4.1 Whenever in this Agreement a particular Article, section or other portion thereof is referred to, such reference pertains to the particular Article, section or portion thereof contained herein, unless otherwise indicated.

### **1.5 References to Agreements and Enactments**

1.5.1 Except as otherwise specifically provided:

1.5.1.1 reference in this Agreement to any contract, agreement or any other document shall be deemed to include (i) reference to the same as supplemented, amended or restated from time to time and (ii) reference to any contract, agreement or any other document which substitutes, in whole or in part, for the same from time to time; and

1.5.1.2 reference in this Agreement to any enactment, including, without limitation, any statute, law, by-law, regulation, rule, ordinance or order, shall be deemed to include reference to such enactment as re-enacted or amended from time to time and to any enactment in substitution therefor.

### **1.6 Currency**

1.6.1 Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian currency.

### **1.7 Gender and Number**

1.7.1 In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

### **1.8 Invalidity of Provisions**

1.8.1 Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision or part hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

### **1.9 No Conditions Precedent**

1.9.1 This Agreement is effective on the Effective Date.

### **1.10 Amendment, Waiver**

1.10.1 No amendment or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **1.11 Governing Law, Attornment**

1.11.1 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 and the Vendor hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of Ontario.

## ARTICLE 2 REPRESENTATIONS AND WARRANTIES

### 2.1 Representations and Warranties

2.1.1 The Vendor represents and warrants to Tarion as follows:

2.1.1.1 the Vendor has authority to enter into this Agreement;

2.1.1.2 if the Vendor is other than a natural person, it has been duly formed and is existing and correspondingly licensed or otherwise authorized to carry on business under the laws of the Province of Ontario.

2.1.1.3 this Agreement has been duly executed and delivered by and on behalf of the Vendor;

2.1.1.4 this Agreement constitutes a legal, valid and binding obligation of the Vendor, enforceable against it in accordance with its terms subject however to the application of general equitable principles and/or any discretionary remedies and equitable relief that may be invoked by a court of competent jurisdiction, and also subject to bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application which may limit the enforcement of creditors' rights generally;

2.1.1.5 the entering into of this Agreement and the performance by the Vendor of its obligations hereunder does not and will not contravene, breach or result in any default under the constating documents or other organizational documents of the Vendor or any applicable law;

2.1.1.6 no authorization, consent or approval of, or filing with or notice to, any person or official body is required in connection with the execution and delivery of this Agreement by the Vendor or the performance of this Agreement by the Vendor;

2.1.1.7 except as disclosed in writing to Tarion, there is no court, administrative, regulatory or similar action (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or inquiry, or any similar matter or action against or involving the Vendor, whether in progress or threatened, which, if determined adversely to the Vendor, would materially adversely affect its ability to perform any of the provisions of this Agreement;

2.1.1.8 the Vendor holds all licences, permits and government approvals needed in order to sell the Homes; and

2.1.1.9 the Vendor has not omitted to disclose anything that could have a material adverse impact upon the risk assessment associated with the QFE Confirmation or Enrolment Confirmation.

### 2.2 Survival of Representations and Warranties

The representations and warranties of the Vendor set forth in Section 2.1 may be relied upon by Tarion, and shall continue in full force and effect, so long as any Vendor Obligations remain outstanding.

## ARTICLE 3 AGREEMENTS OF VENDOR

### 3.1 Vendor to Preserve Status

3.1.1 The Vendor acknowledges, consents and agrees:

3.1.1.1 if it is an entity other than a natural person that it shall at all times maintain and preserve its existence as such entity; and

3.1.1.2if it is an entity other than a natural person, that it shall not change its name or change the jurisdiction of its chief executive office or principal place of business (as such terms are used in the PPSA from time to time) without written notice to Tarion at least fifteen (15) days prior to such change.

### **3.2 Vendor to Furnish Information to Tarion**

3.2.1The Vendor represents and warrants that the information set forth in its application(s) for QFE or Enrolment, and in other documents furnished by the Vendor or its representatives to Tarion in connection with such application or otherwise, is true and correct in all material respects and does not omit to communicate any fact, circumstance or information that could reasonably affect Tarion's assessment and determination of the QFE or Enrolment, the ability of the Vendor to fulfill its obligations under this Agreement and the ONHWP Act, or the risk assessment undertaken (or to be undertaken) in connection with the granting of the QFE or Enrolment.

3.2.2The Vendor shall, upon request of Tarion and at the expense of the Vendor, within such time as Tarion specifies, furnish Tarion with the following information and/or documentation, and Tarion shall safeguard said documentation and/or information in accordance with Tarion's Access to Information and Privacy Policy:

3.2.2.1financial information or documents, including without limitation: financial statements, statements of net worth, bank statements, driver's licenses, birth certificates, articles of incorporation, corporate bylaws, other constating and organizational documents, sample signatures, and such other financial information or documents including electronic records as Tarion may reasonably require for the purpose of processing the QFE or Enrolment.

3.2.2.2copies of purchase agreements, construction contracts, insurance contracts, budgets, workplans, business plans, project schedules, construction reports, or any other records (electronic or otherwise) relating to the Homes.

3.2.2.3information and documents, including updates and supplements to that referred to above, for the purpose of reviewing the status of the QFE or Enrolment, and consideration of risk for Tarion and the guarantee fund provided for under the ONHWP Act in respect of the Homes.

3.2.2.4any other information or documents Tarion may reasonably require from time to time, including updates and supplements to any information previously provided to Tarion.

3.2.3The Vendor shall provide Tarion with information satisfactory to Tarion that the Vendor and the builder (if the builder is not the Vendor) and any other interested persons are qualified and suited for the work they will do in connection with the Homes having regard to prior conduct, including history of claims made, claims resolved, claims paid by Tarion, chargeable conciliations and after-sales service.

3.2.4The Vendor shall, upon request of Tarion, at any time or times provide a written update confirming the identity of interested persons, principals, officers, directors, employees, persons providing financial contribution and persons providing guarantees of the Vendor's obligations and promptly advise Tarion when any of those persons who are significant to the Vendor's operations are no longer employed or associated with the Vendor or builder.

3.2.5The Vendor shall make representatives of the Vendor available to Tarion for interviews during normal business hours, and provide reasonable access to information, documents, things, books, records (including electronic records), plans and other materials, for the purpose of confirming

matters relating to the Vendor Obligations.

3.2.6 The Vendor shall, from time to time, at the Vendor's expense, furnish to Tarion any information, documents, things, and records relating to the eligibility of the Homes for warranty coverage, work done or other steps taken to resolve warranted claims and otherwise the status of warranty coverage of the Homes and authorizes Tarion to share such information with:

3.2.6.1 The purchasers of such Homes who have entered into a purchase agreement with the Vendor.

3.2.6.2 The owners of such Homes who have entered into a Construction Contract with the Vendor.

3.2.6.3 The owners of such Homes to whom the Vendor has transferred title to the Home.

3.2.7 The Vendor shall permit representatives of Tarion to inspect a Home that is the subject of an application for QFE or Enrolment at any time after a builder has commenced construction.

### **3.3 Change in Circumstance**

3.3.1 The Vendor shall, on request, advise Tarion of any incident involving the Vendor that involves fraud or misappropriation of funds.

3.3.2 The Vendor shall provide prompt written notice to Tarion if there is a Material Change.

3.3.3 The Vendor shall provide prompt written notice to Tarion of any proposal: (i) to reorganize, amalgamate, merge, consolidate or otherwise enter into any form of business combination with any person; and/or (ii) to liquidate, dissolve or wind up or take any steps or proceedings in connection therewith.

### **3.4 Consent and Authorization Regarding Credit Checks**

3.4.1 The Vendor hereby authorizes and consents to Tarion procuring and utilizing, from time to time, credit information in respect of the Vendor, its affiliates and guarantors.

### **3.5 Conditions; Specified Terms and Conditions**

3.5.1 If Tarion's notice of proposal to approve a QFE Confirmation or Enrolment Confirmation includes from time to time any terms, conditions or provisions with which the Vendor must comply ("Specified Terms and Conditions") then, unless the Specified Terms of Conditions are successfully appealed under section 10.6 of the ONHWP Act the Vendor acknowledges and agrees that the Specified Terms and Conditions are incorporated by reference herein and are binding as if set out in full in this Agreement.

3.5.2 The Vendor agrees to duly and diligently perform and/or comply with the Specified Terms and Conditions.

3.5.3 The Vendor agrees to use reasonable commercial efforts to satisfy any conditions set out in a QFE Confirmation and included pursuant to paragraphs 10.3(5)(b) and 10.3(6)(b) of the ONHWP Act.

### **3.6 Due Performance of Obligations**

3.6.1 The Vendor shall duly and diligently perform:

3.6.1.1 all of the Vendor Obligations,

3.6.1.2 its obligations to purchasers and owners under purchase agreements or Construction Contracts for the Homes,

3.6.1.3 its obligations under any construction contract with a builder of new homes

3.6.1.4 its obligations to purchasers and owners under the ONHWP Act and NHCL Act, including

obligations to attach an Addendum (see Regulation 165/08) (the "Addendum") and Warranty Information Sheet or other required supplement to purchase agreements, conduct proper pre-delivery inspections, address deposit monies, address matters of delay and delay compensation, and service and attend to statutory warranties and protections in accordance with applicable law and relevant contractual provisions,

3.6.1.5 all obligations under the NHCL Act, Condominium Act and Building Code Act, and all regulations under those Acts, insofar as such obligations relate in any way to Tarion, and

3.6.1.6 all obligations under other applicable law insofar as such obligations relate in any way to Tarion.

3.6.2 Following a risk-based inspection by Tarion of a Home, Tarion may issue to the Vendor a list of deficiencies in the construction of a Home that must be resolved to bring the Home into compliance with the ONHWP Act. The Vendor upon receipt shall resolve the deficiencies according to its obligations under the ONHWP Act within a reasonable period of time, failing which the unresolved items will be treated as warranty claims and any rights to challenge the assessment of the deficiencies as determined by Tarion (e.g. Builder Arbitration Forum) and possible sanctions for the Vendor (e.g. chargeable conciliation) will apply.

3.6.3 The Vendor shall comply with all conditions applicable to the Homes including the requirement that the Vendor or builder, as the case may be,

3.6.3.1 shall not commence to construct Homes in excess of the maximum number permitted to be constructed,

3.6.3.2 shall not commence to construct homes of any class for which the construction is restricted,

3.6.3.3 shall replace one form of Security previously provided to Tarion with another, as required,

3.6.3.4 shall provide Security to Tarion in addition to that already provided, in the amount and in the form determined by Tarion, and

3.6.3.5 shall promptly fulfil any term and condition imposed upon the Vendor by Tarion in connection with the release by Tarion of the whole or any part of any Security provided to Tarion by the Vendor.

3.6.4 If the Vendor does not build homes in the ordinary course of the Vendor's business and/or is not a licensed builder then the Vendor shall;

3.6.4.1 at all times during the construction of any Homes maintain in full force and effect an agreement or agreements with a builder duly licensed under the NHCL Act that: (a) does build homes in the ordinary course of its business, (b) is qualified to build the Homes, and (c) has entered into a builder agreement with Tarion.

3.6.4.2 provide Tarion with a true copy of such agreement or agreements between the Vendor and builder when applying for QFE or Enrolment under the ONHWP Act, and shall forthwith advise and provide appropriate replacement agreement(s) to Tarion should such agreement be terminated, modified or replaced with a similar agreement with another licensed builder. The agreement(s) shall provide for the builder to complete the Homes, and to perform the work required to meet the warranty and protection obligations of the Vendor under the ONHWP Act.

3.6.4.3 furnish to Tarion such information about the builder and its interested persons as Tarion determines is relevant to the application.

3.6.5 The Vendor agrees to have the appropriate persons who are associated persons of the

Vendor complete written or oral interviews, tests or exams with respect to any matters that are relevant to the Homes and the sale, transfer, construction, financing, completion and after-sales service of the Homes.

3.6.6 The Vendor shall, on request, furnish to Tarion proof that it has complied with its obligation to attach an Addendum to purchase agreements, attach Warranty Information Sheet to purchase agreements and to collect and furnish Tarion with owner contact information all in accordance with Ontario Regulation 892

3.6.7 The Vendor shall preserve all assignable rights and claims that the Vendor may have against manufacturers, suppliers, vendors, builders, contractors, sub-contractors and others in respect of any breach of warranty or other defect in respect of the Homes, and shall, forthwith upon the request of Tarion, assign and transfer all such rights and claims to and in favour of Tarion, or as it may direct, and shall execute and deliver such assignments and other instruments and do such acts and things as Tarion may reasonably require in order to enable Tarion or its designate to prosecute and enforce such rights and claims as fully and effectually as the same could be prosecuted and enforced by the Vendor subject however to the overriding provisions of any assignment of such rights, claims and/or interests involving any manufacturers, suppliers, builders, contractors and/or sub-contractors heretofore or hereafter made by the Vendor to and in favour of the lender(s) providing construction financing for the Homes, and which assignment to the construction lender(s) shall take priority over any such assignment by the Vendor to and in favour of Tarion, regardless of when same have been respectively created [and Tarion shall correspondingly execute a financing change statement under the PPSA to evidence and confirm said postponement and subordination to and in favour of the construction lender(s)], and following any such assignment to the construction lender Tarion shall not pursue nor enforce any rights and/or claims under or pursuant to any such assignment so granted by the Vendor to Tarion whatsoever.

3.6.8 The Vendor shall co-operate with Tarion in connection with requests for sales status reports, requests for construction status, and inspections under the ONHWP Act. The Vendor shall upon request pay all such fees as are permitted under the ONHWP Act and communicated in writing to the Vendor in any manner, including in a Registrar Bulletin or other advisory.

3.6.9 The Vendor shall pay to Tarion an administration fee equivalent to fifteen per cent (15%) (or such other per cent as may be stipulated from time to time by regulation under the ONHWP Act) of each amount paid out by Tarion to any purchaser(s), homeowner(s) or third party contractor(s)/consultant(s) in respect of the Vendor Obligations.

3.6.10 The Vendor shall pay to Tarion interest on any amounts owed to Tarion by the Vendor, due to any non-compliance with the Vendor Obligations, which interest shall accrue at the rate of 1.5 per cent (1.5%) per month, calculated daily (or such other interest rate as may be stipulated from time to time by regulation under the ONHWP Act). The Vendor shall make the interest payment referenced above on the first day of each month following the date of default in repaying the amounts owed until the amounts owed are repaid in full.

3.6.11 The Vendor covenants and agrees that it shall not advertise or publish a QFE Confirmation or Enrolment Confirmation that the Vendor does not have (or that does not exist). The Vendor acknowledges and agrees that a breach of this provision shall entitle the Registrar to obtain and



enforce a court order to enjoin and/or restrain such activities.

3.6.12 The Vendor acknowledges and agrees that any QFE Confirmation or Enrolment Confirmation given to the Vendor is not assignable or transferable in whole or in part, whether by way of power of attorney, declaration of trust, sale, assignment, or otherwise. Any amalgamation or other corporate reorganization that would vest the Vendor's assets in a new or successor entity by operation of law shall be subject to the prior written consent of Tarion, such consent not to be unreasonably withheld or delayed. Such consent may require an assumption agreement acceptable to the parties each acting reasonable. The Vendor shall not state or hold out that a home has QFE Confirmation or Enrolment Confirmation if it does not.

### **3.7 Use of Information**

3.7.1 The Vendor authorizes Tarion to: (a) report on the Vendor's performance and/or compliance status relating to homes in respect of which the Vendor acted as Vendor (or that were enrolled by the Vendor) in any publication whether print, electronic or otherwise; (b) disclose information to the general public concerning the Vendor's ability to sell homes and carry out any requisite after sales service and warranty work, where Tarion believes it advisable to do so in furtherance of the ONHWP Act; and (c) disclose as necessary any information required by law and in particular required to support the Ontario Builder Directory (or any successor directory) maintained under NHCL Act.

3.7.2 The Vendor authorizes Tarion to provide the name and contact information of the Vendor from time to time, and to anyone desiring to contact the Vendor.

3.7.3 The Vendor acknowledges that Tarion will collect, use, disclose and retain information obtained from the Vendor in accordance with Tarion's Access to Information and Privacy Policy published on tarion.com.

### **3.8 Security**

3.8.1 The Vendor shall, upon request of Tarion at any time and from time to time, and at the expense of the Vendor:

3.8.1.1 furnish Tarion with such cash collateral, letters of credit, surety bonds, deposit trust agreements, guarantees, indemnities, covenants not to encumber, undertakings, declarations, collateral charges, and/or other security or other assurances as Tarion may require to secure and assure the performance of the Vendor Obligations, and to address risk for Tarion and the guarantee fund under the ONHWP Act ('Security'): (a) in respect of the Homes; and (b) in the aggregate having regard to the obligations owed to Tarion and purchasers and owners in respect of all homes of the Vendor and its affiliates sold or constructed under the ONHWP Act; and

3.8.1.2 supplement, increase, modify, and/or update the said Security and assurances.

3.8.2 If the results of an examination or interview by Tarion or an inspection by Tarion demonstrate that the Vendor or builder does not have the necessary skills, qualifications, technical expertise or experience to sell or transfer and build the Homes that are the subject of the application for QFE or Enrolment to which this Agreement relates, Tarion may require the Vendor or builder to,

3.8.2.1 post additional Security or assurances with Tarion, or

3.8.2.2 successfully complete a course of study that Tarion specifies.

3.8.3 The Vendor agrees that unless the Security instrument or other written statement from Tarion states otherwise (e.g. project specific or limited to defined Homes) then any Security provided to

Tarion by or on behalf of the Vendor shall secure Vendor Obligations of the Vendor in respect of the: (i) Homes; and (ii) any other homes hereafter sold or constructed by the Vendor unless specifically released by Tarion in writing. Despite the foregoing, in connection with an Application for QFE Confirmation in respect of a condominium project, the Security provided in connection with the condominium project shall be limited to the such condominium project (including both residential units and common elements) unless the Security instrument provides otherwise.

3.8.4 For clarity, the Vendor agrees that unless the Security instrument or other written statement from Tarion states otherwise then any Security provided to Tarion by or on behalf of the Vendor and expressly described as blanket security (as opposed to expressly described as project-specific security) shall secure the Vendor Obligations of: (i) the Vendor in respect of the Homes; and (ii) any other associated persons of the Vendor unless and until specifically released by Tarion in writing.

3.8.5 The Vendor agrees that if the Security is in the form of cash collateral then any monies paid to Tarion may be held in the name and on account of Tarion as Security according to Section 3.8 and the Vendor hereby assigns, transfers and sets over a security interest in such sums to and in favour of Tarion as general and continuing collateral security for the Vendor Obligations in accordance with subsections 3.8.3 and 3.8.4. The Vendor consents to Tarion taking any steps it deems necessary to better assure such security interest. If the Security so provided by the Vendor is not expressly described as blanket security, then any financing statement so registered by or on behalf of Tarion in connection therewith shall specifically confirm that the Security (and any and all proceeds derived therefrom) are related to the specific project or the specific Homes for which the Security was originally provided by the Vendor.

3.8.6 The Vendor agrees not to seek injunctive or other relief to prevent Tarion from drawing upon, using, demanding upon or otherwise realizing upon the Security or assurances provided. In the event the Vendor seeks such relief, this provision may be relied upon by Tarion as a complete defence or response in order to defeat the seeking of such relief.

3.8.7 The Vendor has no right to assert set-off as a basis to prevent Tarion from drawing upon, using, demanding upon or otherwise realizing upon the Security or assurances provided. Any claim by the Vendor against Tarion shall be asserted as a claim for damages only.

### **3.9 Use of Tarion Forms**

3.9.1 The Warranty Information Sheet referred to in Regulation 892 shall be attached to every agreement of purchase and sale or construction contract with an owner entered into on or after February 1, 2021.

3.9.2 Every agreement of purchase and sale shall have the appropriate Addendum attached to it in accordance with the requirements set out in Regulation 892.

3.9.3 The Vendor's use of the Warranty Information Sheet form and Addenda forms shall be subject to the following requirements and terms of use. Howsoever the vendor obtains such forms or in the case of the Addenda completes the forms the vendor shall be responsible for the following requirements and terms of use:

3.9.3.1 The source document shall be in the forms supplied by Tarion on its website - [tarion.com](http://tarion.com).

3.9.3.2 The Vendor shall not amend or alter the format, logos or text of the Warranty Information Sheet or Addendum other than, in the case of the Addendum filling in blanks or fields,

checkmarks, dates, addresses, names or other text or additions contemplated by such blanks or fields with accurate information.

3.9.3.3 The Warranty Information Sheet and Addendum are each to be retained as separately identifiable documents. The Addendum shall be attached to and forms part of the agreement of purchase and sale. For example, the Addendum cannot be split up and provisions shall not be distributed in other parts of the agreement of purchase and sale.

3.9.3.4 Except as noted in paragraphs 3.9.3.2 and 3.9.3.3 above, the Vendor shall not modify or amend the Addendum in any way and shall not create any derivative works that incorporate or make use of the Addendum, in whole or in part, without the express prior written consent of Tarion.

3.9.3.5 The Vendor shall be responsible for any improper changes whatsoever made to the Addendum or Warranty Information Sheet and the accuracy and sufficiency of the information inserted in the Addendum.

3.9.3.6 The Warranty Information Sheet and Addendum templates may be changed from time to time by governmental directive or by Tarion. Tarion's sole obligation to advise the Vendor is to send an advisory to the new home building industry and post the new forms on its website. Tarion will use best efforts to provide at least 90 days prior notice of the introduction of a new template, recognizing that the time may be less in extraordinary circumstances but in no event (other than in circumstances beyond Tarion's reasonable control) shall there be less than 30 days prior notice.

## **ARTICLE 4 INDEMNITY**

### **4.1 Indemnity**

4.1.1 The Vendor shall fully indemnify and save Tarion harmless from and against any losses, costs, claims, damages and/or liabilities which may arise resulting from or by virtue of:

4.1.1.1 the failure of the Vendor to perform or fulfill any of the Vendor Obligations;

4.1.1.2 the performance or fulfillment, by Tarion in its sole judgment, of any of the Vendor Obligations; and/or

4.1.1.3 the payment or satisfaction, by Tarion in its sole judgment, in whole or in part of any claim asserted by any party pursuant to the ONHWP Act in respect of, or otherwise related in any manner to, any Home which the Vendor offered to sell, agreed to sell or sold.

Provided that the Vendor shall have no obligation under this Agreement to indemnify Tarion for any losses or costs incurred related to matters that are not warranted or compensable by the Vendor under the ONHWP Act, but this exclusion does not affect Tarion's subrogation rights, or rights under an assignment of any cause of action from another person.

(all of the foregoing collectively, the "Indemnified Amounts").

### **4.2 Continuing Indemnity**

4.2.1 The indemnity herein shall be a continuing indemnity for the payment of all Indemnified Amounts and shall apply to and secure any ultimate balance thereof due or remaining unpaid to Tarion. The indemnity herein shall not be considered as wholly or partially satisfied by the intermediate payment or satisfaction at any time of all or any part of the Indemnified Amounts. All payments received by Tarion from the Vendor or any other person in respect of the Indemnified

Amounts shall be applied as payments in gross without any right on the part of the Vendor to claim the benefit of any such payments until payment in full of all Indemnified Amounts.

#### **4.3 Reinstatement**

4.3.1 The indemnity herein shall be reinstated if at any time any payment of any Indemnified Amounts is rescinded or must otherwise be returned by Tarion upon any Insolvency Proceeding of or affecting the Vendor or for any other reason whatsoever, all as though such payment had not been made. Tarion may concede or compromise any claim that such payment ought to be rescinded or otherwise returned, without discharging, diminishing or in any way affecting the liability of the Vendor hereunder or the effect of this Section.

## **ARTICLE 5 ENFORCEMENT**

#### **5.1 Demand**

5.1.1 Upon the occurrence and during the continuance of a breach of this Agreement, the Vendor shall, on demand being made by Tarion, forthwith pay to Tarion or perform or cause the performance of all Vendor Obligations for which such demand was made. All Indemnified Amounts shall be payable by the Vendor to Tarion, forthwith upon demand being made by Tarion.

#### **5.2 Right to Immediate Payment or Performance**

5.2.1 Tarion shall not be bound to make any demand on or to seek or exhaust its recourse against the Vendor or any other person or to realize on any Security or assurances held by Tarion in respect of the Indemnified Amounts before being entitled to demand payment from or performance by the Vendor and enforce its rights under this Agreement and the Vendor hereby renounces all benefits of discussion and division.

#### **5.3 Tarion's Statement**

5.3.1 A statement in writing of Tarion as to the amount of the Vendor Obligations, the Indemnified Amounts and all other amounts payable hereunder shall be binding upon the Vendor and conclusive against it in the absence of manifest error.

## **ARTICLE 6 APPROPRIATION AND SET-OFF**

#### **6.1 Appropriation by Tarion**

6.1.1 Tarion shall be at liberty to appropriate or to refrain from appropriating any payment made by, or monies received by Tarion from, the Vendor or others to any portion of the Indemnified Amounts and from time to time to revoke or alter any such appropriation, all as Tarion may from time to time in its sole and sole and absolute discretion determine but excluding for greater certainty the HCRA Licensee fees if collected by Tarion.

#### **6.2 Set-Off by Tarion**

6.2.1 Tarion may, at any time and from time to time, upon prior notice where practicable, set off, appropriate and apply:

6.2.1.1 any and all Security or monies furnished by the Vendor and held by Tarion in any capacity, general or special, matured or unmatured, and/or

6.2.1.2 any indebtedness or liability of Tarion to the Vendor, matured or unmatured, against and on account of the Vendor's liability hereunder in such order of application as Tarion may from time to time elect in its sole and absolute discretion. If the amounts being set-off are not payable in the same currency, Tarion may convert either amount into the other currency on the day as of which that set-off is being effected, or if that day is not a business day then on the business day preceding the day as of which that set-off is being effected.

### **6.3 No Set-Off by Vendor**

6.3.1 All amounts payable by the Vendor under this Agreement shall be paid without set-off or counterclaim and without any deduction or withholding whatsoever unless and to the extent that the Vendor shall be prohibited by law from doing so, in which case the Vendor shall pay to Tarion such additional amount as shall be necessary to ensure that Tarion receives the full amount it would have received if no such deduction or withholding had been made.

## **ARTICLE 7 PROTECTION OF TARION**

### **7.1 Defects in Creation of Vendor Obligations do Not Undermine the Indemnity**

7.1.1 Tarion shall not be concerned to see or required to enquire into the capacity and powers of the Vendor or, as applicable, its directors, officers, partners, employees, or agents acting or purporting to act on its behalf. All obligations, liabilities and indebtedness purporting to be incurred by the Vendor in favour of Tarion shall be deemed to form part of the Vendor Obligations and/or Indemnified Amounts even though the Vendor may not be a legal entity or the incurring of such obligations, liabilities or indebtedness was irregularly, defectively or informally effected or in excess of the capacity or powers of the Vendor or its directors, officers, partners, employees or agents and notwithstanding that Tarion has specific notice of the capacity and powers of the Vendor or its directors, officers, partners, employees or agents.

### **7.2 Liability of the Vendor is Absolute**

7.2.1 The liability of the Vendor hereunder shall be absolute and unconditional and shall not be discharged, diminished or in any way affected by:

7.2.1.1 any amalgamation, merger, consolidation or reorganization of the Vendor;

7.2.1.2 any change in the name, business, objects, capital structure, ownership, constating documents, by-laws, resolutions, licensing status or licence number of the Vendor, including without limitation any transaction (whether by way of transfer, sale or otherwise) whereby all or any part of the undertaking, property and assets of the Vendor becomes the property of any other person;

7.2.1.3 if applicable, any change in the membership of the Vendor due to the removal or introduction of one or more partners;

7.2.1.4 any Insolvency Proceeding of or affecting the Vendor or any other person and any court orders made or action taken by the Vendor or any other person under or in connection with those Insolvency Proceeding;

7.2.1.5 any defence, counterclaim or right of set-off available to the Vendor;

7.2.1.6 by Tarion's actions or omissions, including: non-compliance with any of its agreements, with requirements of the ONHWP Act, or failure to give notice; and/or

7.2.1.7 any other circumstance which might otherwise constitute in whole or in part a defence available to, or a discharge of, the Vendor or any other person in respect of the Indemnified Amounts (otherwise than by reason of the payment of those Indemnified Amounts to Tarion).

### **7.3 Dealings by Tarion do Not Change the Indemnity**

7.3.1 Tarion may from time to time in its sole and absolute discretion without discharging, diminishing or in any way affecting the liability of the Vendor hereunder:

7.3.1.1 make or continue to make any accommodation available to the Vendor constituting or relating to the Vendor Obligations or the Indemnified Amounts;

7.3.1.2 permit any increase or decrease, however significant, of the Vendor Obligations or otherwise supplement, amend, restate or substitute, in whole or in part, however significant, the Vendor Obligations or any other agreement relating to any of the foregoing or, in whole or in part, terminate the availability of any agreement relating to, or demand repayment of any Vendor Obligations;

7.3.1.3 enforce or take action under or abstain from enforcing or taking action under the ONHWP Act, this Agreement or any other agreement;

7.3.1.4 receive, give up, subordinate, release or discharge any Security; supplement, amend, restate, substitute, renew, abstain from renewing, perfect or abstain from perfecting or maintaining the perfection of any Security; enforce, take action under or realize in any manner or abstain from enforcing, taking action under or realizing any Security; deal with or abstain from dealing with all or any part of the undertaking, property and assets covered by any Security or allow or abstain from allowing the Vendor or other persons to deal with all or any part of such undertaking, property and assets;

7.3.1.5 renew all or any part of the Vendor Obligations or grant extensions of time or any other indulgences to the Vendor or to any other person liable directly or as surety for all or any part of the Vendor Obligations;

7.3.1.6 accept or make any compositions or arrangements with or release, discharge or otherwise deal with or abstain from dealing with the Vendor or any other person liable directly or as surety for all or any part of the Vendor Obligations;

7.3.1.7 in whole or in part prove or abstain from proving a claim of Tarion in any Insolvency Proceeding of or affecting the Vendor; and

7.3.1.8 agree with the Vendor or any other person liable directly or as surety for all or any part of the Vendor Obligations and/or Indemnified Amounts to do anything described in this Section 7.3; whether or not any of the matters described in this Section 7.3 occur alone or in connection with one or more other such matters.

7.3.2 No loss of or in respect of any Security or additional covenant relating to the Vendor Obligations, the Indemnified Amounts, or any part thereof, whether occasioned through the fault of Tarion or otherwise, shall discharge, diminish or in any way affect the liability of the Vendor hereunder. Neither Tarion nor any of its directors, officers, employees or agents, or any receiver or receiver-manager appointed by it or by a court, shall have any liability, whether in tort, contract or otherwise, for any neglect or any act taken or omitted to be taken by Tarion or by any of such other persons (other than its own negligence or willful misconduct) in connection with the Vendor Obligations and/or Indemnified Amounts or any part thereof, or any Security or other covenant

relating to the Vendor Obligations or any part thereof including without limitation any of the matters described above in this Section 7.3.

#### **7.4 No Waiver**

7.4.1 No delay on the part of Tarion in the exercise of any right, power or remedy hereunder or otherwise shall operate as a waiver thereof, and no single or partial exercise by Tarion of any right, power or remedy shall preclude other or further exercise thereof or the exercise of any other right, power or remedy. No action of Tarion permitted hereunder shall in any way impair or affect its rights, powers or remedies under this Agreement.

#### **7.5 No Personal Liability**

The protections against personal liability set out in section 2.10 of the ONHWP Act are incorporated by reference and apply with necessary modifications to any matters in connection with this Agreement.

## **ARTICLE 8 TERM AND TERMINATION**

### **8.1 Term**

8.1.1 This Agreement shall be in full force and effect from the Effective Date until all Vendor Obligations have been duly discharged and all Indemnified Amounts have been paid to Tarion. None of the expiry, suspension or revocation of a licence in respect of the vendor or builder nor the refusal, suspension or revocation of a QFE Confirmation or Enrolment Confirmation will affect the validity or enforceability of the Agreement.

## **ARTICLE 9 MISCELLANEOUS**

### **9.1 Payment of Costs and Expenses**

9.1.1 The Vendor shall pay to Tarion on demand all reasonable costs and expenses (on a full indemnity basis) of Tarion, its officers, employees and agents and any receiver or receiver-manager appointed by it or by a court in connection with this Agreement, including, without limitation, in connection with:

9.1.1.1 any actual or proposed amendment or modification hereof or any waiver hereunder and all instruments supplemental or ancillary thereto; and

9.1.1.2 the defence, establishment, protection or enforcement of any of the rights or remedies of Tarion under this Agreement including, without limitation, all costs and expenses of establishing the validity and enforceability of, or of collection of amounts owing under this Agreement; and further including, without limitation, all of the reasonable fees, expenses and disbursements of Tarion's lawyers, on a full indemnity basis, incurred in connection therewith and all sales or value-added taxes payable by Tarion (whether refundable or not) on all such costs and expenses.

### **9.2 Additional Security**

9.2.1 This Agreement shall be in addition to, shall not in any way be prejudiced by, and shall not prejudice: (i) any other Security now or hereafter held by Tarion; and (ii) the endorsement by the Vendor of any notes or other documents, and Tarion's rights under this Agreement shall not be

merged in any such other Security or endorsement.

### **9.3 Entire Agreement**

9.3.1 This Agreement cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between Tarion and the Vendor with respect to the subject matter hereof except as expressly set forth herein and in the legislation, agreements and other documents that set out the Vendor Obligations.

### **9.4 Successors and Assigns**

9.4.1 This Agreement shall be binding on the Vendor and its successors and shall enure to the benefit of Tarion and its successors and assigns. This Agreement may be assignable by Tarion but the Vendor may assert as against a successor or assign any set-off, counter-claim or equities between the Vendor and Tarion, and any claim or defence that the Vendor has against Tarion. The Vendor may not assign its obligations under this Agreement.

### **9.5 Notices**

9.5.1 All notices and other communications under this Agreement are to be in writing; are to be delivered by hand, by courier, registered mail or email; will be deemed to have been received on the business day following the date of delivery; and are to be addressed to the party at the address as set forth on the title page of this Agreement. Each party may establish a new address including email address from time to time by written notice to the other given in accordance with this Section, provided however, that no such change of address will be effective until written notice thereof is actually received by the party to whom such change of address is sent.

9.5.2 The Vendor hereby consents and reaffirms its agreement to receive and accept service of all Notices of Proposal of conditions of Qualification for Enrolment, and all Notices of Proposal of conditions of Enrolment that are issued by Tarion pursuant to section 10.6 of the ONHWP Act, in an electronic document format via BuilderLink? or any successor portal maintained by Tarion.

### **9.6 Further Assurances**

9.6.1 The Vendor must at its own expense from time to time do, execute and deliver, or cause to be done, executed and delivered, all such financing statements, further assignments, documents, acts, matters and things as may be reasonably requested by Tarion for the purpose of giving effect to this Agreement or for the purpose of establishing compliance with the representations, warranties and covenants herein contained.

### **9.7 Electronic Signing and Delivery**

9.7.1 This document may be executed by any of the parties in an electronic format, by way of an electronic signature in accordance with the provisions of the Electronic Commerce Act, 2000, S.O. 2000, as amended, including an electronic signature manifested or undertaken by or through DocuSign, E-Sign or other electronic signing platform or application, on the express understanding and agreement that: (a) as and when this document is so executed by way of an electronic signature, it shall thereupon be deemed to be valid, binding and enforceable upon the party or parties so executing the document electronically; and (b) if and when any of the parties execute this document by or through an electronic signing format or application, then such party or parties shall be obliged to forthwith provide the other party or parties with a certificate of completion produced or issued by the signing platform or application or any similar certificate issued by other



secure electronic platform or application which confirms, verifies and/or validates the electronic signature of the party or parties so executing this document electronically.

9.7.2A photocopy or a scanned and e-mail copy of this executed document may be relied upon (and correspondingly enforced) to the same extent as if it were an original hard copy executed version.

### **9.8 Electronic Delivery**

9.8.1 Delivery of the executed Agreement by electronic medium shall be as effective as delivery of a manually executed copy of this Agreement.

## **ARTICLE 10 UNDERSTANDING OF OBLIGATIONS**

### **10.1 Independent Legal Advice**

10.1.1 The Vendor acknowledges having received independent legal advice with respect to this Agreement or having expressly chosen not to do so.

### **10.2 Review of Materials**

10.2.1 The Vendor acknowledges and confirms that the Vendor and its legal counsel have been given an opportunity by Tarion to review the ONHWP Act and the Registrar Bulletins issued by Tarion to the date hereof (as well as any agreement(s) between the Vendor and Tarion in existence as of the date hereof).

### **10.3 Review and Understand the Agreement**

10.3.1 The Vendor acknowledges and confirms having read and understood the terms and provisions hereof before having executed this Agreement.

### **10.4 Tarion Bound**

10.4.1 Tarion is bound by the terms of this Agreement as of the Effective Date provided there have been no changes to the form and content of this Agreement as evidenced by Tarion's execution below.

### **TARION WARRANTY CORPORATION**

Per: "Peter Balasubramanian" (signed)

Name: Peter Balasubramanian

Title: President and Chief Executive Officer

**This is Exhibit “C” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**

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

THE HONOURABLE MADAM	)	TUESDAY, THE 2 <sup>ND</sup>
	)	
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,

- 4 -

- (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/](http://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.



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**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 2<sup>nd</sup> 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

**George Benchetrit (LSO No. 34163H)**

Tel: (416) 218-1141

Email: [george@chaitons.com](mailto:george@chaitons.com)

**Laura Culleton (LSO No. 82428R)**

Tel: (416) 218-1128

Email: [laurac@chaitons.com](mailto:laurac@chaitons.com)

**Lawyers for the Plaintiffs**

**This is Exhibit “D” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**

Court File No. CV-23-00698632-00CL

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

THE HONOURABLE	)	TUESDAY, THE 2 <sup>nd</sup>
	)	
JUSTICE STEELE	)	DAY OF MAY, 2023

**DORR CAPITAL CORPORATION**

Applicant

- and -

**HIGHVIEW BUILDING CORP 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

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by the Applicant 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 and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of the Respondent, Highview Building Corp Inc. (the "**Debtor**"), including the real property owned by the Debtor municipally known as 88 Nashville Road and 99 Nashville Road, Kleinberg, Ontario ("**Real Property**"), acquired for, or used in relation to a business carried on by the Debtor, was heard this day at Toronto, Ontario, by Zoom videoconference.

**ON READING** the Notice of Application issued April 27, 2023 (the “**Notice of Application**”), the Affidavit of Brian Dorr sworn April 28, 2023 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, the Respondent, the proposed Receiver, and such other parties listed on the Participant Information Form, no one else on the service list appearing, although duly served, as appears from the Affidavit of Service of Kelly Vickers sworn May 1, 2023, and on reading the consent of KSV Restructuring Inc. to act as the Receiver,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record dated May 1, 2023, is hereby abridged and validated so that this Application 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 Respondent, including all proceeds thereof (the “**Property**”). For greater certainty, in this Order, Property includes, without limitation, the Real Property listed in Schedule “A” hereto, and all proceeds thereof.

### **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 contracts or agreements in connection therewith (including any amendments and modifications thereto), repudiate or disclaim any contracts or 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, modify, and/or terminate any contracts or agreements to which the Debtor is a party, provided that the Receiver shall not cease to perform, repudiate or disclaim any contracts of the Debtor prior to May 29, 2023, without further Order of the Court;
- (d) to engage contractors, tradespersons, quantity surveyors, consultants, appraisers, agents, experts, auditors, accountants, managers, including a property manager, mortgage brokers or administrators, 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 investigate, and report to this Court on, intercompany payments, transactions and other arrangements by the Debtor and other Persons (as defined below), including without limitation, other companies and entities that are affiliates of the Debtor, that appear to the Receiver to be out of the ordinary course of business. All Persons shall be required to provide any and all information and documents related to the Debtor requested by the Receiver in connection with such investigations;
- (k) 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;
- (l) 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 \$250,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; 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;



- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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 and to meet with and discuss with such governmental authority and execute any agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (q) 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;
- (r) to undertake any investigation deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to the Debtor,

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 BDO Canada Limited in its capacity as information officer (in such capacity, the “**Information Officer**”), 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, shareholders and unit holders, 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 aspect(s) or portion(s) of the 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 or any assets located on premises belonging to the Debtor 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 or any assets located on premises belonging to the Debtor 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.

13. **THIS COURT ORDERS** that in the event that an account for the supply of goods and/or services is transferred from the Debtor to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

## **RECEIVER TO HOLD FUNDS**

14. **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**

15. **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**

16. **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**

17. **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**

18. **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**

19. **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.

20. **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.

21. **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**

22. **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 \$250,000.00 (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.

23. **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.

24. **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.

25. **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**

26. **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 <http://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>’.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide 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.

28. **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. 8100-2-175 (SOR/DORS).

**GENERAL**

29. **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.

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

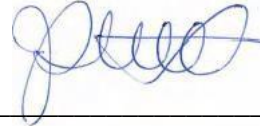
31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, 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.

32. **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.

33. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, 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 Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

34. **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.

35. **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.



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**SCHEDULE "A"****REAL PROPERTY**

PIN 03323 – 0578 (LT) LRO #65

PART OF LOTS 54, 55 & 56, PLAN 9, PART 1, PLAN 65R37961; CITY OF VAUGHAN

PIN 03323 – 0579 (LT) LRO #65

PART OF LOTS 52 & 53, PLAN 9, PART 2, PLAN 65R37961; CITY OF VAUGHAN

PIN 03323 – 0580 (LT) LRO #65

PART LOTS 52, 53, 54, 55 & 56, PLAN 9 & PART LOT 24, CONCESSION 8(VGN), PART3,  
PLAN 65R37961; CITY OF VAUGHAN

**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 Highview Building Corp 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 \_\_\_ day of \_\_\_\_\_, 2023 (the "**Order**") made in an application having Court file number \_\_-\_\_\_\_\_, 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 \_\_\_\_\_, 20\_\_.

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

Per: \_\_\_\_\_

Name:

Title:

**DORR CAPITAL CORPORATION**

and

Court File No. CV-23-00698632-00CL  
**HIGHVIEW BUILDING CORP INC.**

Applicant

Respondent

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

Proceeding commenced at Toronto

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**ORDER APPOINTING RECEIVER**

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**BLANEY McMURTRY LLP**  
Barristers & Solicitors  
2 Queen Street East, Suite 1500  
Toronto ON M5C 3G5

**Eric Golden** (LSO #38239M)  
(416) 593-3927 (Tel)  
Email: egolden@blaney.com

**Chad Kopach** (LSO #48084G)  
(416) 593-2985 (Tel)  
Email: ckopach@blaney.com

Lawyers for the Applicant

**This is Exhibit “E” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**



Court File No. CV-23-00698637-00CL

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

THE HONOURABLE	)	TUESDAY, THE 2 <sup>nd</sup>
	)	
JUSTICE STEELE	)	DAY OF MAY, 2023

**DORR CAPITAL CORPORATION**

Applicant

- and -

**STATEVIEW HOMES (BEA TOWNS) 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

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by the Applicant 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 and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of the Respondent, Stateview Homes (BEA Towns) Inc. (the "**Debtor**"), including the real property owned by the Debtor legally described as Block 76, Plan 51m1167, City of Barrie, being all of PIN 58763-1764 (LT) in LRO #51 ("**Real Property**"), acquired for, or used in relation to a business carried on by the Debtor, was heard this day at Toronto, Ontario, by Zoom videoconference.

**ON READING** the Notice of Application issued April 27, 2023 (the “**Notice of Application**”), the Affidavit of Brian Dorr sworn April 28, 2023 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, the Respondent, the proposed Receiver, and such other parties listed on the Participant Information Form, no one else on the service list appearing, although duly served, as appears from the Affidavit of Service of Kelly Vickers sworn May 1, 2023, and on reading the consent of KSV Restructuring Inc. to act as the Receiver,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record dated May 1, 2023, is hereby abridged and validated so that this Application 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 Respondent, including all proceeds thereof (the “**Property**”). For greater certainty, in this Order, Property includes, without limitation, the Real Property listed in Schedule “A” hereto, and all proceeds thereof.

### **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 contracts or agreements in connection therewith (including any amendments and modifications thereto), repudiate or disclaim any contracts or 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, modify, and/or terminate any contracts or agreements to which the Debtor is a party provided that the Receiver shall not cease to perform, repudiate or disclaim any contracts of the Debtor prior to May 29, 2023, without further Order of the Court;
- (d) to engage contractors, tradespersons, quantity surveyors, consultants, appraisers, agents, experts, auditors, accountants, managers, including a property manager, mortgage brokers or administrators, 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 investigate, and report to this Court on, intercompany payments, transactions and other arrangements by the Debtor and other Persons (as defined below), including without limitation, other companies and entities that are affiliates of the Debtor, that appear to the Receiver to be out of the ordinary course of business. All Persons shall be required to provide any and all information and documents related to the Debtor requested by the Receiver in connection with such investigations;
- (k) 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;
- (l) 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 \$250,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; 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;

- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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 and to meet with and discuss with such governmental authority and execute any agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (q) 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;
- (r) to undertake any investigation deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to the Debtor,

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 BDO Canada Limited in its capacity as information officer (in such capacity, the “**Information Officer**”), 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, shareholders and unit holders, 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 aspect(s) or portion(s) of the 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 or any assets located on premises belonging to the Debtor 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 or any assets located on premises belonging to the Debtor 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.

13. **THIS COURT ORDERS** that in the event that an account for the supply of goods and/or services is transferred from the Debtor to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

### **RECEIVER TO HOLD FUNDS**

14. **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**

15. **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**

16. **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**

17. **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**

18. **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**

19. **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.

20. **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.

21. **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**

22. **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 \$250,000.00 (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.

23. **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.

24. **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.

25. **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**

26. **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 <http://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>’.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide 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.

28. **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. 8100-2-175 (SOR/DORS).

**GENERAL**

29. **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.

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

31. **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.

32. **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.

33. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, 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 Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

34. **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.

35. **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.



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**SCHEDULE "A"**  
**REAL PROPERTY**

PIN 58763 – 1764 LT in LRO #51

BLOCK 76, PLAN 51M1167; CITY OF BARRIE



**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 (BEA Towns) 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 \_\_\_ day of \_\_\_\_\_, 2023 (the "**Order**") made in an application having Court file number \_\_-\_\_\_\_\_, 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 \_\_\_\_\_, 20\_\_.

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

Per: \_\_\_\_\_

Name:

Title:

**DORR CAPITAL CORPORATION**

Applicant

and

Court File No. CV-23-00698637-00CL  
**STATEVIEW HOMES (BEA TOWNS) INC.**

Respondent

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

Proceeding commenced at Toronto

**ORDER APPOINTING RECEIVER**

**BLANEY McMURTRY LLP**

Barristers & Solicitors  
2 Queen Street East, Suite 1500  
Toronto ON M5C 3G5

**Eric Golden** (LSO #38239M)  
(416) 593-3927 (Tel)  
Email: egolden@blaney.com

**Chad Kopach** (LSO #48084G)  
(416) 593-2985 (Tel)  
Email: ckopach@blaney.com

Lawyers for the Applicant

**This is Exhibit “F” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**



Court File No.: CV-23-00698576-00CL

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

THE HONOURABLE )  
JUSTICE STEELE )  
TUESDAY, THE 2<sup>ND</sup>  
DAY OF MAY, 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**

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by KingSett Mortgage Corporation and Dorr Capital Corporation (together, the "**Applicants**") for an Order pursuant to subsection 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. ("**KSV**") as receiver and manager (in such capacities, the "**Receiver**") without security, of the real property legally described in Schedule "A" to this Receivership Order (the "**Real Property**") and all present and future undertakings and property, both real and personal of Stateview Homes (Minu Towns) Inc. ("**Minu**"), Stateview Homes (Nao Towns) Inc. ("**Nao**"), Stateview Homes (On the Mark) Inc. ("**On the Mark**"), TLSFD Taurasi Holdings Corp. ("**Taurasi Holdings**") and Stateview Homes (High Crown Estates) Inc. ("**High Crown**", and together with

Minu, Nao, On the Mark and Taurasi Holdings, the "**Debtors**" and each a "**Debtor**"), which is located at or related to or used in connection with or arising from or out the Real Property (collectively, the "**Property**") was heard this day via Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Daniel Pollack sworn April 26, 2023 and the Exhibits thereto (the "**Pollack Affidavit**"), and on hearing the submissions of counsel for the Applicants, the proposed Receiver and such other parties listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the affidavit of service sworn and filed, and on reading the consent of KSV to act as the Receiver,

### **SERVICE AND DEFINITIONS**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that all terms not otherwise defined herein shall have the meaning ascribed to them in the Pollack Affidavit.

### **APPOINTMENT**

3. THIS COURT ORDERS that pursuant to subsection 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of the Property.

### **RECEIVER'S POWERS**

4. 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 Minu, Nao or Taurasi Holdings on or 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.

5. 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 Debtors, or any of them, including the powers to enter into any agreements or incur any obligations in the ordinary course of business or in connection with the Property, cease to carry on all or any part of the business of the Debtors, or any of them, or cease to perform or disclaim any contracts of any of the Debtors, provided, however, that the Receiver shall not cease to perform or disclaim any agreements of purchase and sale of either Minu or Nao or any lease agreement of Taurasi Holdings prior to May 29, 2023 without further Order of this Court;
- (d) to engage construction managers, project managers, contractors, subcontractors, consultants, appraisers, agents, real estate brokers, 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 Debtors, or any of them, or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to any of the Debtors in connection with the Property (including, without limitation, any rent payments in respect of the Real Property) and to exercise all remedies of any of the Debtors in collecting such monies and accounts, including, without limitation, to enforce any security held by any of the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to any of the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of any of the Debtors, 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 any of the Debtors, 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 investigate, and report to this Court on, intercompany payments, transactions and other arrangements between any of the Debtors and other Persons (as defined below), including, without limitation, other companies and entities that are affiliates of any of the Debtors, that appear to the Receiver to be out of the ordinary course of business. All Persons shall be



required to provide any and all information and documents related to the Debtors requested by the Receiver in connection with such investigations;

- (k) 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, and with the Applicants' consent, may deem appropriate;
- (l) 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;

- (m) 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;
- (n) to report to, meet with and discuss with such affected Persons 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (p) 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 any of Debtors and to meet with and discuss with such governmental authority and execute any agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the Debtors;
- (r) to undertake any investigations deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (s) to exercise any shareholder, partnership, joint venture or other rights which any of the Debtors may have; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to any of the Debtors,

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, including any of the Debtors and BDO Canada Limited in its capacity as information officer (in such capacity, the "**Information Officer**"), and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

6. THIS COURT ORDERS that (i) each of the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, (iii) the Information Officer, and (iv) 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.

7. 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, information and cloud-based data of any kind related to the business or affairs of any of the Debtors, and any computer programs, computer tapes, computer disks, cloud 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, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 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.

8. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer, in a cloud 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, cloud or other system and providing the Receiver with any and all access codes, account names, account numbers and account creating credentials that may be required to gain access to the information.

### **NO PROCEEDINGS AGAINST THE RECEIVER**

9. 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 DEBTORS OR THE PROPERTY**

10. THIS COURT ORDERS that no Proceeding against or in respect of any of the Debtors 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 any of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Debtors, 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 any of the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or any of the Debtors 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**

12. 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 any of the Debtors, without written consent of the Receiver or leave of this Court.

## CONTINUATION OF SERVICES

13. THIS COURT ORDERS that all Persons having oral or written agreements with any of the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, accounting services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any of the Debtors 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 any of the Debtors' 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 each of the Debtors 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.

14. THIS COURT ORDERS that in the event that an account for the supply of goods and/or services is transferred from any of the Debtors to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

## RECEIVER TO HOLD FUNDS

15. 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**

16. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the applicable Debtor until such time as the Receiver, on the applicable 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 subsection 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 subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

17. 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 each of the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

18. 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*,

1999, 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**

19. 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 subsections 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**

20. 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 (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to all security granted by High Crown to Dorr Capital Corporation ("**Dorr**") in connection with the Commitment Letter dated June 17, 2021 by and between High Crown and Dorr (the "**Dorr High Crown Security**") and to subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their 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.

22. 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**

23. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from KingSett Mortgage Corporation 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 \$5,000,000 (or such greater amount that is acceptable to the Applicants and 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 (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subordinate in priority to the Receiver's Charge, the Dorr High Crown Security and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. 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.

25. 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.

26. 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**

27. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) 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 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/stateview-homes>.

28. 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 any of the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors 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.

29. THIS COURT ORDERS that the Applicants, 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 Debtors' 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. 8100-2-175 (SOR/DORS).

## CRITICAL PAYMENTS

30. THIS COURT ORDERS that the Receiver may, with the written consent of the Applicants, make payments owing by any of the Debtors to suppliers, contractors, subcontractors and other creditors in respect of amounts owing prior to the date of this Order.

## GENERAL

31. THIS COURT ORDERS that notwithstanding anything else in this Order:

- (a) the Receiver shall keep separate accounts in respect of each Debtor and the applicable Property owned by it or in which it has an interest (in each case, the "**Debtor's Property**"), including any cash of such Debtor and any proceeds of such Property, whether held in the Post Receivership Accounts or elsewhere (in each case, the "**Debtor's Cash**");
- (b) the Receiver shall only use the Debtor's Cash of a Debtor to pay amounts in respect of operating costs of such Debtor and its Debtor's Property and not in respect of operating costs of another Debtor or its Debtor's Property;
- (c) to the extent practicable, the Receiver shall keep separate account of fees and disbursements incurred for each Debtor and its Debtor's Property, or when not attributable to a specific Debtor or Debtor's Property, the Receiver shall allocate such fees and disbursements on a reasonable basis between the applicable Debtors and their respective Debtor's Property; and
- (d) to the extent practicable, the Receiver shall keep separate account of amounts borrowed under the Receiver's Borrowing Charge for each Debtor and its Debtor's Property, or when not attributable to a specific Debtor or Debtor's Property, the Receiver shall allocate such borrowings on a reasonable basis between the applicable Debtors and their respective Debtor's Property, provided that nothing herein shall impact the nature and priority of any claims, mortgages, security interests, or liens in respect of the Debtors or over the Property and is without prejudice to any Person

(including the Applicants and the Receiver) seeking a variation or modification of this paragraph upon further motion to the Court on not less than seven days' notice.

32. THIS COURT ORDERS that, for greater certainty, all distributions in these proceedings will be subject to further Order of this Court, which will require an allocation of the Receiver's Charge and the Receiver's Borrowing Charge among the Property. All Persons reserve their rights with respect to such allocation.

33. 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.

34. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any of the Debtors.

35. 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.


36. 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.

37. THIS COURT ORDERS that the Applicants shall have their costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicants' security or, if not so provided by the Applicants' security, then on a substantial indemnity basis to

be paid by the Receiver from the net realizations from the Property with such priority and at such time as this Court may determine.

38. 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.

39. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order and are enforceable without the need for entry and filing.

 Digitally signed  
by Jana Steele  
Date: 2023.05.02  
12:44:46 -04'00'

**Schedule "A"**

**REAL PROPERTY**

**Stateview Homes (Minu Towns) Inc.**

**PIN 03061-5685 (LT)**

BLOCK 1, PLAN 65M4729; SUBJECT TO AN EASEMENT AS IN YR200734; CITY OF MARKHAM

**PIN 03061-5686 (LT)**

BLOCK 2, PLAN 65M4729; CITY OF MARKHAM

(together, the "**Minu Real Property**")

**Stateview Homes (Nao Towns) Inc.**

**PIN 02962-0856 (LT)**

1STLY: PART OF LOT 6, CONCESSION 6 MARKHAM, PART 1, 65R38179, (STOPPED UP AND CLOSED BY YR3416947); 2NDLY: PART OF LOT 6, CONCESSION 6 MARKHAM, PART 2, 65R38179, (STOPPED UP AND CLOSED BY YR3416947); 3RDLY: PT LT 6, CON 6, AS IN MA51910; 4THLY: PT LT 6, CON 6, AS IN MA107810; 5THLY: PT LT 6, CON 6, PART 3, 64R5892, EXCEPT PT 1, 65R7816; 6THLY: PT LT 6, CON 6, PART 1, 64R5892; 7THLY: PT LT 6, CON 6, AS IN R434475; 8THLY: PT LT 6, CON 6, AS IN R264882; 9THLY: PT LT 6, CON 6, AS IN R329719; 10THLY: PT LT 6, CON 6, AS IN MA39709 EXCEPT MA51910, MA107810 AND 64R5892; CITY OF MARKHAM

(the "**Nao Real Property**")

**Stateview Homes (On the Mark) Inc.**

**PIN 30029-0001 (LT)**

YORK REGION COMMON ELEMENTS CONDOMINIUM PLAN NO. 1497 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1810 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 70, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO.1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 70 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1809 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 69, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 69 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1808 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 68, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 68 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1807 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 67, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 67 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1806 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 66, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 66 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1805 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 65, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 65 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1804 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 64, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 64 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1803 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 63, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 63 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1802 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 62, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO.1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 62 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1801 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 61, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 61 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1800 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 60, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 60 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1799 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 59, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 59 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1798 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 58, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 58 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1797 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 57, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 57 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1796 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 56, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 56 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM



**PIN 03047-1795 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 55, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 55 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1794 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 54, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 54 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1793 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 53, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 53 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1792 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 52, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 52 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1791 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 51, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 51 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1776 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 36, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 36 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1775 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 35, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 35 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1774 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 34, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 34 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1773 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 33, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 33 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1772 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 32, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 32 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1771 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 32, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 32 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1756 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 16, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 16 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1755 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 15, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 15 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1754 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 14, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 14 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1753 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 13, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 13 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1752 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 12, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 12 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

**PIN 03047-1751 (LT)**

PART BLOCK 3, PLAN 65M3925 PART 11, 65R40092; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1497; SUBJECT TO AN EASEMENT AS IN YR3390991; SUBJECT TO AN EASEMENT AS IN YR3406916; TOGETHER WITH AN EASEMENT OVER YRCP1497 AS IN YR3504856; SUBJECT TO AN EASEMENT OVER PART 11 65R40092 IN FAVOUR OF YRCP1497 AS IN YR3504856; CITY OF MARKHAM

(collectively, the "On the Mark Real Property")

**TLSPD Taurasi Holdings Corp.**

**PIN 03273-0069 (LT)**

PCL 24-1 SEC M1832; LT 24 PL M1832; CITY OF VAUGHAN

**PIN 03275-0052 (LT)**

PT LT 11 PL 7925 VAUGHAN AS IN VA68142; CITY OF VAUGHAN

**PIN 03274-0132 (LT)**

PCL 10-1 SEC 65M2330; LT 10 PL 65M2330; S/T RIGHT AS IN LT332786; VAUGHAN; CITY OF VAUGHAN

**PIN 03274-0044 (LT)**

PCL 1-2 SEC 65M2049; PT LTS 1, 2, PL 65M2049; PT 4, 65R4957; VAUGHAN; CITY OF VAUGHAN

**PIN 03274-0043 (LT)**

PCL 1-3 SEC 65M2049; PT LTS 1, 2, PL 65M2049; PT 3, 65R4957; VAUGHAN

(collectively, the "Taurasi Holdings Real Property")

**Stateview Homes (High Crown Estates) Inc.**

**PIN 03372-1040 (LT)**

BLOCK 2, PLAN 65M4757; SUBJECT TO AN EASEMENT AS IN YR3467268; SUBJECT TO AN EASEMENT IN GROSS AS IN YR3502108; TOWNSHIP OF KING

(the "**High Crown Real Property**")

**SCHEDULE "B"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (the "**Receiver**") without security, of the real property legally described in Schedule "A" (the "**Real Property**") to the Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 2<sup>nd</sup> day of May, 2023 (the "**Order**") and all present and future undertakings and property, both real and personal 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. (collectively, the "**Debtors**"), which is located at or related to or used in connection with or arising from or out of the Real Property (collectively, the "**Property**"), appointed by the Order made in an application having Court File Number CV-23-00698576-00CL, 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*, R.S.C. 1985, c. B-3, 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 \_\_\_\_\_, 2023.

KSV Restructuring Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:

**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**

**KINGSETT MORTGAGE CORPORATION  
AND DORR CAPITAL CORPORATION**

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.**

Applicants

Respondents

Court File No.: CV-23-00698576-00CL

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

Proceedings commenced in Toronto

**RECEIVERSHIP ORDER**

**BENNETT JONES LLP**

One First Canadian Place, Suite 3400  
P.O. Box 130  
Toronto, ON M5X 1A4

**Sean Zweig** (LSO# 57307I)

Tel: (416) 777-6254

Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com)

**Aiden Nelms** (LSO#: 74170S)

Tel: (416) 777-4642

Email: [nelmsa@bennettjones.com](mailto:nelmsa@bennettjones.com)

Lawyers for the Applicants



**This is Exhibit “G” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**

Court File No. CV-23-00699067-00CL

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

THE HONOURABLE	)	THURSDAY, THE 18 <sup>th</sup>
	)	
JUSTICE PENNY	)	DAY OF MAY, 2023

B E T W E E N:

**MERIDIAN CREDIT UNION LIMITED**

**Applicant**

-and-

**STATEVIEW HOMES (ELM&CO) INC.**

**Respondent**

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 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**

**ORDER**

**(appointing Receiver)**

THIS APPLICATION made by the Applicant 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 (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Stateview Homes (Elm&Co) Inc. (the “**Debtor**”), including the real property owned by the Debtor municipally known as 12942 York Durham Line, Stouffville, Ontario (the “**Real Property**”), acquired for, or used in relation to a business carried on by the Debtor, was heard this day at Toronto, Ontario, by Zoom videoconference.

ON READING the Notice of Application issued May 5, 2023 (the “**Notice of Application**”), the Affidavit of Amber Waheed sworn May 5, 2023 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, the Respondent, the proposed Receiver, and such other parties listed on the Participant Information Form, no one else on the service list appearing although duly served, as appears from the Affidavit of Service of Michelle Pham sworn May 8, 2023, and on reading the consent of KSV Restructuring Inc. to act as the Receiver,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record dated May 8, 2023, is hereby abridged and validated so that this Application 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**”). For greater certainty, in this Order, Property includes, without limitation, the Real Property listed in Schedule “A” hereto, and all proceeds thereof.

### **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 of 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 contracts or agreements in connection therewith (including any amendments and modifications thereto), repudiate or disclaim any contracts or 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, modify, and/or terminate any contracts or agreements to which the Debtor is a party, provided that the Receiver shall not cease to perform, repudiate or disclaim any contracts of the Debtor prior to May 29, 2023, without further Order of the Court;
- (d) to engage contractors, subcontractors, tradespersons, quantity surveyors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, including a property manager, mortgage brokers or administrators, 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 investigate, and report to this Court on, intercompany payments, transactions and other arrangements by the Debtor and other Persons (as defined below), including without limitation, other companies and entities that are affiliates of the Debtor or related to the Debtor (the “**Other Stateview Entities**”), that appear to the Receiver to be out of the ordinary course of business. All Persons, including any Other Stateview Entities, shall be required to provide any and all information and documents related to the Debtor requested by the Receiver in connection with such investigations;
- (k) 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, and with the Applicant's consent, may deem appropriate;
- (l) 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 \$250,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; 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;

- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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 and to meet with and discuss with such governmental authority and execute any agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (q) 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;

- (r) to undertake any investigation deemed appropriate by the Receiver with respect to the location and/or disposition of assets reasonably believed to be, or to have been, Property;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations, including opening any mail or other correspondence addressed to the Debtor.

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 BDO Canada Limited in its capacity as information officer (in such capacity, the “**Information Officer**”), 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, (iii) the Information Officer, and (iv) 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.

13. THIS COURT ORDERS that in the event that an account for the supply of goods and/or services is transferred from the Debtor to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

### **RECEIVER TO HOLD FUNDS**

14. 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**

15. 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**

16. 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**

17. 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**

18. 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**

19. 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.

20. 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.

21. 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**

22. 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 \$250,000.00 (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.

23. 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.

24. 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.

25. 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**

26. 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 <http://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>.

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Guide 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.

28. 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**

29. THIS COURT ORDERS that notwithstanding anything else in this Order: (a) the Receiver shall keep accounts in respect of the Debtor and the Property separate or distinguished from accounts regarding any Other Stateview Entities or their applicable property in which KSV Restructuring Inc. has been court-appointed as receiver; (b) the Receiver shall only use the Debtor's Property, including any funds of the Debtor or any proceeds from such Property, to pay amounts in respect of the operating costs of the Debtor and its Debtor's Property and not in respect of the operating costs of any Other Stateview Entities or their applicable property in which KSV Restructuring Inc. has been court-appointed as receiver; (c) to the extent practicable, the Receiver shall keep accounts of fees and disbursements incurred for the Debtor and the Property separate or distinguished from accounts of fees and disbursements regarding any Other Stateview Entities or their applicable property in which KSV Restructuring Inc. has been court-appointed as receiver; and (d) to the extent practicable, the Receiver shall keep account of any amounts borrowed, if applicable, under the Receiver's Borrowing Charge for the Debtor and the Property separate or distinguished from any amounts borrowed regarding any Other Stateview Entities or their applicable property in which KSV Restructuring Inc. has been court-appointed as receiver.

30. 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.

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

32. 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.

33. 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.

34. THIS COURT ORDERS that the Applicant shall have its costs of this Application, 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 Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

35. 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.

36. 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, including when the Court returns to regular operation.

A handwritten signature in blue ink, appearing to read 'Ray J.', is written over a horizontal line.



**SCHEDULE "A"****REAL PROPERTY**

PIN 03707 – 0188 (LT) LRO #65

PART LOT 5, CONCESSION 10 WHITCHURCH, PART 1, PLAN 65R37148; TOWN OF WHITCHURCH-STOUFFVILLE

**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 (Elm&Co) 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 18<sup>th</sup> day of May, 2023 (the "**Order**") made in an application having Court file number CV-23-00699067-00CL, 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 MONTH, 20YR.

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

Per: \_\_\_\_\_

Name:

Title:

MERIDIAN CREDIT UNION LIMITED  
Applicant

-and- STATEVIEW HOMES (ELM&CO) INC.  
Respondent

Court File No. CV-23-00699067-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(APPOINTING RECEIVER)**

**FOGLER, RUBINOFF LLP**

Lawyers

77 King Street West  
Suite 3000, P.O. Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8

**Scott Venton (LSO#: 43383R)**

Tel: 416.941.8870

Fax: 416.941.8852

Email: [sventon@foglers.com](mailto:sventon@foglers.com)

**Vern W. DaRe (LSO# 32591E)**

Tel: 416.941.8842

Fax: 416.941.8852

Email: [vdare@foglers.com](mailto:vdare@foglers.com)

Lawyers for the Applicant,  
Meridian Credit Union Limited

**This is Exhibit “H” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**

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

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**

**AFFIDAVIT OF DANIEL POLLACK<sup>1</sup>  
(Sworn April 26, 2023)**

I, **DANIEL POLLACK**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Senior Director, Special Loans and Portfolio Management, of KingSett Mortgage Corporation ("**KingSett**"). I have responsibility for matters pertaining to the borrowings of Stateview Homes (Minu Towns) Inc. ("**Minu**"), Stateview Homes (Nao Towns) Inc. ("**Nao**"), Stateview Homes (On the Mark) Inc. ("**On the Mark**") and TLSFD Taurasi Holdings Corp. ("**Taurasi Holdings**" and together with Minu, Nao, and On the Mark, the "**KingSett Debtors**" and each a "**KingSett Debtor**") from KingSett. Additionally, I have responsibility for matters

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<sup>1</sup> Terms used but not otherwise defined in this affidavit have the meanings ascribed to them in Schedule "A" to the proposed Receivership Order.

pertaining to the second lien borrowings of Stateview Homes (High Crown Estates) Inc. ("**High Crown**") and together with the KingSett Debtors, the "**Debtors**" and each a "**Debtor**"), a loan for which KingSett has all the beneficial economic interest and is serviced by Dorr Capital Corporation ("**Dorr**" and together with KingSett, the "**Applicants**" and each an "**Applicant**"). As such, I have personal knowledge of the matters to which I depose in this affidavit, unless otherwise indicated. Where I have relied on other sources for information, I have so stated and I believe them to be true.

2. I swear this affidavit in support of an application by the Applicants for an order (the "**Receivership Order**"), among other things:

- (a) appointing KSV Restructuring Inc. ("**KSV**") as receiver and manager (in such capacities, the "**Receiver**"), without security, of the real property legally described in Schedule "A" to the proposed Receivership Order (the "**Real Property**") and all present and future undertakings and property, both real and personal of the Debtors, which is located at or related to or used in connection with or arising from or out of the Real Property (collectively, the "**Property**") pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-33, as amended (the "**BIA**"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43;
- (b) granting a charge over the Property in favour of the Receiver and the Receiver's counsel to secure their fees and disbursements in respect of these proceedings (the "**Receivership Proceedings**"); and

- (c) granting a charge over the Property for the purpose of funding the exercise of the powers and duties conferred upon the Receiver pursuant to the proposed Receivership Order.
3. The Debtors are privately held companies and each is the registered owner of certain of the Real Property which, at a high level, consists of the following:
- (a) *Minu* – this project, located at Donald Cousens Parkway, Markham, Ontario, is a residential development site for the construction of 147 townhomes (the "**Minu Townhomes**") for which servicing is complete, but construction has not yet begun. According to its website, the Minu Townhomes are "sold out".
- (b) *Nao* – this project, located at 14<sup>th</sup> Avenue and McCowan Road, Markham, Ontario, is an entitled land residential development site for the construction of 96 townhomes (the "**Nao Townhomes**") for which site servicing preparations are underway. According to its website, the Nao Townhomes are "fully reserved".
- (c) *On the Mark* – this project, located at 16<sup>th</sup> Avenue and Woodbine Avenue, Markham, Ontario, is comprised of 70 townhomes (the "**On the Mark Townhomes**") for which unit closings have commenced (all of the On the Mark Townhomes were pre-sold and a number of the units have now closed) and final closings are expected in May/June of 2023. This project is approximately 85-90% complete (based on percentage of construction costs incurred).
- (d) *High Crown* – located at 13151-13165 Keele Street, King City, Ontario, this project is comprised of 48 townhomes (the "**High Crown Townhomes**" and together with



the Minu Townhomes, the Nao Townhomes and the On the Mark Townhomes, the "**Townhomes**") for which construction has commenced and unit closings are expected in late 2023. This project is approximately 30-35% complete (based on percentage of construction costs incurred). According to its website, all but two (2) of the High Crown Townhomes have been sold.

- (e) *Taurasi Holdings* – these properties, located at 6 & 8 Bradwick Drive, Vaughan, Ontario, 301 Bradwick Drive, Vaughan, Ontario, 488 North Rivermede, Vaughan, Ontario, and 596 Oster Lane, Vaughan, Ontario, are comprised of four (4) industrial properties totaling 116,065 square feet of leasable area and is currently 100% occupied.<sup>2</sup>

4. In connection with the Debtors' acquisition and development of the Real Property, KingSett and Dorr extended certain loans to the Debtors (collectively, the "**Loan Facilities**"). As of April 11, 2023, KingSett and Dorr are owed approximately \$167,826,634.78 and \$4,000,592.77, respectively.<sup>3</sup>

5. As described in further detail below, the Applicants have recently learned about the Unauthorized Overdraft (as defined below) which they are advised was caused by the now former Chief Financial Officer of the Debtors. The Unauthorized Overdraft resulted in an accumulated unpermitted overdraft in connection with accounts with TD (as defined below) in excess of \$37,000,000. Additionally, the Applicants have learned that: (i) at least certain of the funds advanced by the Applicants in connection with the Loan Facilities were not used for their

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<sup>2</sup> 596 Oster Lane has three (3) tenants, one (1) of which is non-arm's length to the Debtors who occupies approximately 75% of the space.

<sup>3</sup> Unless otherwise stated herein, all monetary amounts referenced are in Canadian dollars.

designated purpose; and (ii) the state of the Debtors' book and records is poor and, in certain circumstances, non-existent.

6. In response to the foregoing, the Applicants issued demands for the repayment of the Debtors' indebtedness to the Applicants and delivered notices of intention to enforce security in accordance with section 244 of the BIA (each a "NITES"). The ten-day period afforded to the Debtors to repay their indebtedness to the Applicants prior to the Applicants taking enforcement action has elapsed.

7. The Loan Documents confer upon the Applicants a contractual right to appoint a receiver or receiver manager over the Property. In furtherance of its contractual rights, the Applicants have commenced the Receivership Proceedings to preserve the Property, with the current intention of completing construction of at least the On the Mark Townhomes with the contractors and trades already in place and ultimately facilitating the closings of the remaining On the Mark Townhomes and the sale of the other Real Property to maximize recoveries for the Debtors' stakeholders, including the Applicants.

8. As a result of the Unauthorized Overdraft and ensuing events, the Debtors have effectively no liquidity. As further described below, liens are being registered against the Real Property, which may delay closing of the On the Mark Townhomes, and generally putting the Real Property at risk in light of the Applicants' inability to fund the trades. A receivership is required to provide stability, liquidity and credibility, all of which is necessary to maximize value.

## **I. PARTIES**

9. KingSett is incorporated pursuant to the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended, and is headquartered in Toronto, Ontario. KingSett is a subsidiary of KingSett

Capital Inc., a private equity real estate investment firm with approximately \$19.5 billion in assets under management.

10. Dorr is incorporated pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16 (the "OBCA") and is headquartered in North York, Ontario. Dorr is a leading private provider of commercial mortgage investments and commercial real estate and equity financing.

11. Each of the Debtors is a privately held company incorporated under the OBCA. Each of Minu, Nao, On the Mark and High Crown has a registered head office at 410 Chrislea Road, Unit 16, Woodbridge, Ontario, Canada. Taurasi Holdings has a registered head office at 161 Duncan Road, Richmond Hill, Ontario, Canada.

12. According to the Corporate Profile Reports generated on April 24, 2023, the Debtors' directors and officers are as follows:

- (a) *Minu* - Daniel Ciccone and Carlo Taurasi;
- (b) *Nao* - Daniel Ciccone and Carlo Taurasi;
- (c) *On the Mark* - Daniel Ciccone and Carlo Taurasi;
- (d) *High Crown* - Daniel Ciccone and Carlo Taurasi; and
- (e) *Taurasi Holdings* - Carlo Taurasi, Anthony Taurasi, Dennie Taurasi, Dino Taurasi and Emilio Taurasi.

13. Copies of the Debtors' Ontario corporate profile reports obtained from the Ministry of Government and Consumer Services on April 24, 2023 are attached hereto as **Exhibit "A"**.

## II. THE INTEREST DEFAULTS, THE UNAUTHORIZED OVERDRAFT, THE DEBTORS' PROPOSAL AND OTHER RECENT DEVELOPMENTS

### (a) *The Interest Defaults*

14. On or about April 3, 2023, all of the Debtors' monthly interest payments to the Applicants did not clear due to insufficient funds in the Debtors' accounts (the "**Interest Payment Defaults**"). When the Applicants alerted the Debtors to the Interest Payment Defaults, they were advised by the Debtors that the interest payments would be paid by wire on or before April 7, 2023. Those wires were never received by the Applicants.

15. Given the ongoing Interest Payment Defaults, KingSett insisted on an in-person meeting with the Debtors on April 10, 2023 (the "**April 10 Meeting**").

### (b) *The Unauthorized Overdraft*

16. At the April 10 Meeting, the Debtors for the first time advised KingSett that it had entered into a Settlement Agreement dated March 31, 2023 (the "**TD Settlement Agreement**") by and between, among others, the Debtors, the principals of the Debtors (the "**TD Agreement Counterparties**") and Toronto-Dominion Bank ("**TD Bank**" and together with the TD Agreement Counterparties, the "**TD Settlement Agreement Signatories**").

17. The Applicants now understand that the TD Settlement Agreement resulted from actions urgently brought by TD in response to a significant unauthorized overdraft - in excess of \$37,000,000 - spanning about 12 months and dozens of accounts implicating multiple financial institutions (the "**Unauthorized Overdraft**"). The Applicants have been advised that the

Unauthorized Overdraft was caused by the now former Chief Financial Officer Mr. Daniel Ciccone<sup>4</sup>.

18. As a result of the Unauthorized Overdraft, TD urgently issued an action on March 24, 2023, in an effort to recover its loss. As more information came to light and TD discovered that accounts at other financial institutions were implicated, TD issued a second action to secure emergency statutory relief from those other financial institutions as well. The Unauthorized Overdraft, and TD's subsequent actions (together, the "**TD Court Actions**"), resulted in the banks freezing the majority of the Debtors' bank accounts.

19. Presumably in an effort to resolve the issues created as a result of the Unauthorized Overdraft and the TD Court Actions, the TD Settlement Agreement Signatories entered into the TD Settlement Agreement. It is of note that the Applicants were not privy to, nor were they included in any discussions in connection with, the TD Settlement Agreement. The Applicants understand that on April 4, 2023, a Court order (the "**TD Court Order**") was sought and obtained that, among other things, approved the TD Settlement Agreement and appointed BDO Canada Limited as information officer (in such capacity, the "**Information Officer**") of the Court. A copy of the TD Court Order and the Motion Record of TD filed in support of same are attached hereto as **Exhibit "B"** and **Exhibit "C"**, respectively.

20. Of great concern to the Applicants is that the TD Settlement Agreement contemplates significant immediate payments to TD Bank, who ought to be an unsecured creditor, in priority to the Applicants and the Debtors' other creditors. Additionally, KingSett has learned that, in connection with the TD Settlement Agreement, the Debtors agreed to the registration of a charge

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<sup>4</sup> It is of note that, as of April 24, 2023, Mr. Ciccone, the former Chief Financial Officer, is still listed as a director and officer for 4 of the 5 Debtors.

in the amount of \$37,134,091 (the "**TD Charge**") over the Taurasi Holdings Real Property in favour of TD. Per the terms of the Taurasi Holdings Loan Documents (as defined below), the registration of the TD Charge required KingSett's consent, and the Debtors' failure to obtain that consent is a default under the terms thereof (the "**TD Default**"). TD has not entered into a subordination and standstill agreement with KingSett, as KingSett would certainly have required. Since KingSett was not served with any materials seeking the TD Court Order, KingSett is not aware as to whether the Court was advised of these issues.

21. In addition to the Applicants' concerns with the Unauthorized Overdraft and certain of the terms of the TD Settlement Agreement, the Applicants also have a major concern that the Debtors did not advise KingSett about the Unauthorized Overdraft or any related issues between the time they clearly knew about it – on or about March 24, 2023 at the latest – until KingSett forced a meeting on April 10, 2023 following the Interest Payment Defaults.

*(c) Improper Diversion of Funds, Minu APS, the Debtors' Proposal, and Other Recent Developments*

*(i) Improper Diversion of Funds*

22. In addition to the foregoing, KingSett has been made aware that certain funds advanced by KingSett for the explicit purpose of paying development charges, cash in lieu of parkland dedication and cash in lieu of Letters of Credit to the City of Markham and the Township of King have been diverted and used for other purposes. For example, on June 2, 2022 and October 19, 2022, KingSett, at the request of the Debtors, advanced approximately \$2,154,886 and \$5,835,896 in connection with development charges due and payable on the Minu Real Property and the Nao

Real Property, respectively. These amounts were in addition to amounts that the Debtors were to pay to the City of Markham from equity and deposits collected.

23. Additionally, I am advised by Altus (as defined below) that in July 2021 and November 2022, \$4,407,216 and \$1,000,000, respectively, were funded from KingSett, the High Crown Real Property first mortgagee, equity and Townhome deposits for the explicit purpose of paying development charges and cash in lieu of parkland dedication in connection with the High Crown Real Property.

24. KingSett now understands that, notwithstanding the foregoing, not all of those funds were in fact provided to the City of Markham and the Township of King. Specifically, on April 25, 2023, the Township of King advised that only \$2,673,156 had been received in respect of the development charges and nothing had been received in respect of the cash in lieu of parkland dedication. That means approximately \$2,734,060 was inappropriately diverted for other purposes. Payment of development charges and cash in lieu of parkland dedication increases the value of the project since any developer would be required to pay these amounts. Since some or all of the Debtors knowingly diverted these funds, the value of KingSett's security has been eroded.

25. KingSett has engaged the Altus Group ("**Altus**") to review the Debtors' books and records in order to determine where all these funds were diverted to and also whether any other funds the Applicants advanced were used for improper purposes. Although the Debtors appear to be cooperating with the review process, the Altus Group has thus far been unable to determine the extent of the issue given the incomplete and/or non-existence of the Debtors' books and records.

(ii) *Minu APS*

26. On April 17, 2023, Bennett Jones received an email (the "**April 17 Email**") from counsel to the Debtors advising that Minu had signed an agreement of purchase and sale for the Minu Real Property (the "**Minu APS**"). The Minu APS was signed without the consent of, or even consultation with, KingSett, notwithstanding that the Minu Real Property cannot be sold absent KingSett's consent pursuant to the Minu Loan Documents (as defined below). It is of note that the Debtors signed the Minu APS despite already having oversight of the Information Officer and experienced restructuring counsel.

27. Following receipt of the April 17 Email, Bennett Jones advised the Debtors' counsel that: (i) KingSett was not supportive of the Minu APS; and (ii) the Debtors had signed the Minu APS without the consent of KingSett and in direct violation of the Minu Loan Documents (the "**Response Email**"). On April 18, 2023, Bennett Jones received an email from counsel to the Debtors advising that the Minu APS had been terminated (the "**April 18 Email**", and together with the April 17 Email and the Response Email, the "**Minu Offer Emails**"). A copy of the Minu Offer Emails (without the Minu APS) is attached hereto as **Exhibit "D"**.

(iii) *The Debtors' Proposal*

28. On the evening of April 14, 2023, KingSett received a without prejudice proposal from the Debtors (the "**Debtors' Proposal**"). On April 19, 2023, KingSett provided a without prejudice response to the Debtors' Proposal and advised that it had significant concerns with the Debtors' Proposal as drafted.



29. On April 20, 2023, counsel to the Applicants had a without prejudice discussion with the Information Officer and counsel to the Debtors regarding certain of those concerns. In addition, on April 21, 2023, I and certain of my colleagues met with Mr. Carlo Taurasi and Mr. Dino Taurasi to discuss the Debtors' Proposal, among other things.

30. Ultimately, the Applicants were not comfortable proceeding – including providing urgently required funding – outside of a formal receivership process.

*(iv) Other Recent Developments*

31. On April 20, 2023, the Applicants were provided with copies of Notices of Cancellation dated April 18, 2023 (the "**Notices of Cancellation**") that advised that insurance of, among others, certain of the Debtors was to be cancelled effective May 3, 2023. Some of the entities listed in the Notices of Cancellation are related to the Debtors' larger corporate structure and the potential implications of the cancellation of their insurance to the Debtors' development and construction operations are not known to the Applicants at this time. Copies of the Notices of Cancellation are attached hereto as **Exhibit "E"**.

32. As is evidenced in the On the Mark Parcel Registers (as defined below), certain liens (collectively, the "**Liens**") have been registered against the On the Mark Real Property in connection with amounts owing to certain contractors and subcontractors. It is of note that prior to learning about the Liens, KingSett was prepared to advance approximately \$900,000 to pay certain outstanding amounts owing to trade creditors of On the Mark in an effort to keep the project moving forward. In light of the Liens, KingSett is no longer in a position to fund, other than through a receivership proceeding.

33. The Liens registered against the On the Mark Real Property have been made by Trudel & Sons Roofing Ltd. and 2496008 Ontario Inc (together, the "**Lien Claimants**"). I understand that the Lien Claimants will be served with the Applicants' Application Record.

34. Based on the Applicants' extensive experience with real estate development, the Applicants have significant safety and project completion concerns as a result of the Liens and the Debtors' inability to pay trades. The appointment of a receiver would provide much needed stability as it would allow super-priority funding to be advanced to ensure that trades are paid and projects are completed in a timely fashion.

35. Under the Loan Documents, the Debtors are obligated to promptly satisfy any and all accounts owing to any trade subcontractors and lien claimants and to keep the land free and clear from all liens and other claims. The registration of any lien against the Real Property is also a default under the terms of the Loan Documents.

36. As a result of the Liens, I understand that certain On the Mark Townhomes that were scheduled to close recently failed to close and have been delayed. I also understand from Altus that On the Mark has not remitted HST payable in connection with the sale of at least certain of the On the Mark Townhomes that have closed to date.

37. As of the date of this affidavit, I understand that the Liens remain on title to the Real Property and the Debtors have no ability to satisfy them.

38. As a result of the foregoing, the Applicants' already significant concerns in connection with the Debtors and the Real Property have been exacerbated. Further, it is not clear to the Applicants at this time what impacts all of the foregoing will have on value and it may be that the Applicants

are undersecured on some or all of the Real Property. The Applicants have lost faith in management and the Debtors' actions and inactions have resulted in an irreparable erosion of trust.

### III. INDEBTEDNESS OWING TO THE APPLICANTS AND RELATED SECURITY

#### (a) *Stateview Homes (Minu Towns) Inc. - First Mortgage*<sup>5</sup>

39. KingSett entered into a commitment letter dated September 30, 2021 with Minu (the "**Original Minu Commitment Letter**"), pursuant to which KingSett agreed to provide, among other things: (i) a first mortgage in the principal amount of \$73,590,000; and (ii) Letters of Credit (cash in lieu) in the principal amount of \$6,105,000 (collectively, the "**Minu Loan Facility**"). Under the terms of the Original Minu Commitment Letter, the Minu Loan Facility: (i) bears interest at Prime Rate plus 2.80% (floor rate of 5.25%) calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement; and (ii) without prejudice to KingSett's right to demand repayment at any time for any reason whatsoever, matures 18 months from the date of the initial advance under the Minu Loan Facility. A copy of the Original Minu Commitment Letter is attached hereto as **Exhibit "F"**.

40. The parties have amended the Original Minu Commitment Letter (as amended, the "**Minu Commitment Letter**") pursuant to three (3) amendments dated October 6, 2021 (the "**First Minu Amendment**"), May 13, 2022 (the "**Second Minu Amendment**"), and June 13, 2022 (the "**Third Minu Amendment**") and together with the First Minu Amendment and the Second Minu Amendment, the "**Minu Amendments**"). Copies of the Minu Amendments are attached hereto as **Exhibit "G"**.

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<sup>5</sup> Terms used but not otherwise defined in this section shall have the meanings ascribed to them in the Minu Commitment Letter.

41. Principally, the Minu Amendments provided as follows:
- (a) *First Minu Amendment* – modified the Interest Reserve by providing that, subject to an Event of Default occurring and continuing, monthly interest was to be capitalized to the outstanding principal balance of the Minu Loan Facility outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security in full or the capitalization of a total of \$3,900,000.
  - (b) *Second Minu Amendment* – modified the Subsequent Lender's Fee earned by KingSett and opened the Minu Loan Facility for prepayment until August 1, 2022.
  - (c) *Third Minu Amendment* – increased the Letters of Credit component of the Minu Loan Facility from \$6,105,000 to \$7,105,000.
42. As of April 11, 2023, the total indebtedness under the Minu Commitment Letter was \$50,486,803.30 (the "**Minu Indebtedness**").
43. As general and continuing security for the payment and performance of Minu's obligations under the Minu Commitment Letter, KingSett was granted various security by Minu and certain of its principals (collectively, the "**Minu Security**").
44. Among other things, the Minu Security granted by Minu, includes:
- (a) a \$100,000,000 first ranking charge/mortgage in respect of the Minu Real Property (the "**Minu First Mortgage**"), governed by, among other things, the additional provisions registered therewith (the "**Minu Mortgage Terms**");

- (b) a General Assignment of Rents and Leases dated October 8, 2021 (the "**Minu Assignment of Rents**");
- (c) an Assignment of Material Agreements dated October 8, 2021, attached hereto as **Exhibit "H"**;
- (d) an Assignment of Monies Which May Become Payable Under Insurance Policies dated October 8, 2021, attached hereto as **Exhibit "I"**; and
- (e) a General Security Agreement dated October 8, 2021 (the "**Minu GSA**"), attached hereto as **Exhibit "J"**.

45. Copies of the Minu First Mortgage, the Minu Mortgage Terms and the Minu Assignment of Rents are attached hereto as **Exhibit "K"**. The Minu Commitment Letter, the Minu First Mortgage, the Minu Mortgage Terms, the Minu Assignments of Rents and the Minu GSA are referred to collectively herein as the "**Minu Loan Documents**".

46. KingSett registered the Minu First Mortgage in the Land Registry Office (No. 65). Copies of the sub-searches of title conducted on April 24, 2023 (collectively, the "**Minu Parcel Registers**") in respect of the Minu Real Property evidencing the registration of the Minu First Mortgage and the Minu Assignment of Rents on title are attached hereto as **Exhibit "L"**.

47. KingSett also registered its security interest granted by Minu pursuant to the Minu GSA under the *Personal Property Security Act*, R.S.O. 1990, c. P.10, as amended (the "**PPSA**"). KingSett's registration in this regard is reflected in the search results (the "**Minu PPSA Search Results**") conducted against Minu under the PPSA effective April 13, 2023, which are attached hereto as **Exhibit "M"**.

(i) *Minu's Other Creditors*

48. As disclosed within the Minu Parcel Registers and the Minu PPSA Search Results, in addition to KingSett, Minu has granted security interests to Dorr in both its personal property and the Minu Real Property.

49. KingSett is not aware of whether Minu has unsecured creditors.

(b) *Stateview Homes (Nao Towns) Inc. - First Mortgage*<sup>6</sup>

50. KingSett entered into a commitment letter dated November 29, 2021 with Nao (the "**Original Nao Commitment Letter**"), pursuant to which KingSett agreed to provide, among other things: (i) a first mortgage in the principal amount of \$47,500,000; and (ii) Letters of Credit (cash in lieu) in the principal amount of \$4,750,000 (collectively, the "**Nao Loan Facility**"). Under the terms of the Original Nao Commitment Letter, the Nao Loan Facility: (i) bears interest at Prime Rate plus 2.80% (floor rate of 5.25%) calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement; and (ii) without prejudice to KingSett's right to demand repayment at any time for any reason whatsoever, matures 18 months from the date of the initial advance under the Nao Loan Facility. A copy of the Original Nao Commitment Letter is attached hereto as **Exhibit "N"**.

51. The parties have amended the Original Nao Commitment Letter (as amended, the "**Nao Commitment Letter**") pursuant to one (1) amendment dated November 16, 2022 (the "**Nao Amendment**"). Principally, the Nao Amendment increased the Letters of Credit component of the

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<sup>6</sup> Terms used but not otherwise defined in this section shall have the meanings ascribed to them in the Nao Commitment Letter.

Nao Loan Facility from \$4,750,000 to \$7,105,000. A copy of the Nao Amendment is attached hereto as **Exhibit "O"**.

52. As of April 11, 2023, the total indebtedness under the Nao Commitment Letter was \$23,692,659.30 (the "**Nao Indebtedness**").

53. As general and continuing security for the payment and performance of Nao's obligations under the Nao Commitment Letter, KingSett was granted various security by Nao and certain of its principals (collectively, the "**Nao Security**").

54. Among other things, the Nao Security granted by Nao, includes:

- (a) a \$65,300,000 first ranking charge/mortgage in respect of the Nao Real Property (the "**Nao First Mortgage**") governed by, among other things, the additional provisions registered therewith (the "**Nao Mortgage Terms**");
- (b) a General Assignment of Rents and Leases dated December 22, 2021 (the "**Nao Assignment of Rents**");
- (c) an Assignment of Material Agreements dated December 22, 2021, attached hereto as **Exhibit "P"**;
- (d) an Assignment of Monies which may Become Payable Under Insurance Policies dated December 22, 2021, attached hereto as **Exhibit "Q"**; and
- (e) a General Security Agreement dated December 22, 2021 (the "**Nao GSA**"), attached hereto as **Exhibit "R"**.

55. Copies of the Nao First Mortgage, the Nao Mortgage Terms and the Nao Assignment of Rents are attached hereto as **Exhibit "S"**. The Nao Commitment Letter, the Nao First Mortgage, the Nao Mortgage Terms, the Nao Assignments of Rents and the Nao GSA are referred to collectively herein as the "**Nao Loan Documents**".

56. KingSett registered the Nao First Mortgage in the Land Registry Office (No. 65). Copies of the sub-searches of title conducted on April 24, 2023 (collectively, the "**Nao Parcel Registers**") in respect of the Nao Real Property evidencing the registration of the Nao First Mortgage and the Nao Assignment of Rents on title are attached hereto as **Exhibit "T"**.

57. KingSett also registered its security interest granted by Nao pursuant to the Nao GSA under the PPSA. KingSett's registration in this regard is reflected in the search results (the "**Nao PPSA Search Results**") conducted against Nao under the PPSA effective April 13, 2023, which are attached hereto as **Exhibit "U"**.

(i) *Nao's Other Creditors*

58. As disclosed within the Nao Parcel Registers and the Nao PPSA Search Results, in addition to KingSett, Nao has granted security interests to Dorr in both its personal property and the Nao Real Property.

59. KingSett is not aware of whether Nao has unsecured creditors.



(c) *Stateview Homes (Minu Towns) Inc. and Stateview Homes (Nao Towns) Inc. –  
Second Blanket Mortgage*<sup>7</sup>

60. KingSett entered into a commitment letter dated September 30, 2021 with Minu and Nao (the "**Original Minu/Nao Commitment Letter**"), pursuant to which KingSett agreed to provide, among other things, a second blanket mortgage in the principal amount of \$30,650,000 (the "**Minu/Nao Loan Facility**"). Under the terms of the Original Minu/Nao Commitment Letter, the Minu/Nao Loan Facility: (i) bears interest at Prime Rate plus 10.05% (floor rate of 12.50%) calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement; and (ii) without prejudice to KingSett's right to demand repayment at any time for any reason whatsoever, matures 19 months from the date of the initial advance under the Minu/Nao Loan Facility. A copy of the Original Minu/Nao Commitment Letter is attached hereto as **Exhibit "V"**.

61. The parties have amended the Original Minu/Nao Commitment Letter (as amended, the "**Minu/Nao Commitment Letter**") pursuant to four (4) amendments dated November 29, 2021 (the "**First Minu/Nao Amendment**"), June 13, 2022 (the "**Second Minu/Nao Amendment**"), September 12, 2022 (the "**Third Minu/Nao Amendment**") and November 16, 2022 (the "**Fourth Minu/Nao Amendment**" and together with the First Minu/Nao Amendment, the Second Minu/Nao Amendment and the Third Minu/Nao Amendment, the "**Minu/Nao Amendments**"). Copies of the Minu/Nao Amendments are attached hereto as **Exhibit "W"**.

62. Principally, the Minu/Nao Amendments provided as follows:

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<sup>7 7</sup> Terms used but not otherwise defined in this section shall have the meanings ascribed to them in the Nao Commitment Letter.

- (a) *First Minu/Nao Amendment* – added the Minu/Nao Collateral Security (as defined below) and amended the Permitted Encumbrances and the Allocation of Net Closing Proceeds sections of the Original Minu/Nao Commitment Letter.
- (b) *Second Minu/Nao Amendment* – amended the Permitted Encumbrances section of the Original Minu/Nao Commitment Letter.
- (c) *Third Minu/Nao Amendment* – amended the Collateral Discharge section of the Original Minu/Nao Commitment Letter.
- (d) *Fourth Minu/Nao Amendment* – amended the Permitted Encumbrances section of the Original Minu/Nao Commitment Letter.

63. As of April 11, 2023, the total indebtedness under the Minu/Nao Commitment Letter was \$31,230,182.80 (the "**Minu/Nao Indebtedness**").

64. As general and continuing security for the payment and performance of Minu and Nao's obligations under the Minu/Nao Commitment Letter, KingSett was granted various security by Minu, Nao and certain of their principals (collectively, the "**Minu/Nao Security**"). Additional collateral security was also granted by On the Mark (the "**Minu/Nao Collateral Security**").

65. Among other things, the Minu/Nao Security and the Minu/Nao Collateral Security granted by Minu, Nao and On the Mark, includes:

- (a) a \$38,312,500 second ranking charge/mortgage in respect of the Nao Real Property and the Minu Real Property (the "**Minu/Nao Second Mortgage**"), governed by,

among other things, the additional provisions registered therewith (the "**Minu/Nao Second Mortgage Terms**");

- (b) a \$38,312,500 third ranking change in respect of the On the Mark Real Property (the "**Minu/Nao Collateral Third Mortgage**"), governed by, among other things, the additional provisions registered therewith (the "**Minu/Nao Collateral Mortgage Terms**");
- (c) a General Assignment of Rents and Leases dated October 8, 2021 (the "**Minu Second Mortgage Assignment of Rents**");
- (d) an Assignment of Material Agreements dated October 8, 2021, attached hereto as **Exhibit "X"**;
- (e) an Assignment of Monies which may Become Payable Under Insurance Policies dated October 8, 2021, attached hereto as **Exhibit "Y"**;
- (f) a General Security Agreement dated October 8, 2021 (the "**Minu Second Mortgage GSA**"), attached hereto as **Exhibit "Z"**;
- (g) a General Assignment of Rents and Leases dated December 22, 2021 (the "**Nao Second Mortgage Assignment of Rents**");
- (h) an Assignment of Material Agreements dated December 22, 2021, attached hereto as **Exhibit "AA"**;
- (i) an Assignment of Monies which may Become Payable Under Insurance Policies dated December 22, 2021, attached hereto as **Exhibit "BB"**; and

- (j) a General Security Agreement dated December 22, 2021 (the "**Nao Second Mortgage GSA**"), attached hereto as **Exhibit "CC"**.

66. Copies of the Minu/Nao Second Mortgage, the Minu/Nao Second Mortgage Terms, the Minu/Nao Collateral Third Mortgage, the Minu/Nao Collateral Mortgage Terms, the Minu Second Mortgage Assignment of Rents and the Nao Second Mortgage Assignment of Rents are attached hereto as **Exhibit "DD"**. The Minu/Nao Commitment Letter, the Minu/Nao Second Mortgage, the Minu/Nao Mortgage Terms, the Minu/Nao Collateral Third Mortgage, Minu/Nao Collateral Mortgage Terms, the Minu Second Mortgage Assignment of Rents, the Nao Second Mortgage Assignment of Rents, the Minu Second Mortgage GSA and the Nao Second Mortgage GSA are referred to collectively herein as the "**Minu/Nao Loan Documents**".

67. KingSett registered the Minu/Nao Second Mortgage and the Minu/Nao Collateral Third Mortgage in the Land Registry Office (No. 65). Copies of the Minu Parcel Registers, the Nao Parcel Registers and the On the Mark Parcel Registers (as defined below) in respect of the Minu Real Property, Nao Real Property and the On the Mark Real Property evidencing the registration of the Minu/Nao Second Mortgage, the Minu/Nao Collateral Third Mortgage, the Minu Second Mortgage Assignment of Rents and the Nao Second Mortgage Assignment of Rents on title are attached hereto as **Exhibit "L"**, **Exhibit "T"** and **Exhibit "JJ"**.

68. KingSett also registered its security interest granted by Minu and Nao pursuant to the Minu Second Mortgage GSA and Nao Second Mortgage GSA, respectively, under the PPSA. KingSett's registration in this regard is reflected by the Minu PPSA Search Results and the Nao PPSA Search Results conducted against Minu and Nao under the PPSA effective April 13, 2023, which are attached hereto as **Exhibit "M"** and **Exhibit "U"**.

(i) *Minu's and Nao's Other Creditors*

69. Details on Minu's and Nao's other creditors are detailed in paragraphs 48, 49, 58 and 59 of this affidavit.

(d) *Stateview Homes (On the Mark) Inc. - First Mortgage*<sup>8</sup>

70. KingSett entered into a commitment letter dated May 13, 2020 with On the Mark (the "**Original On the Mark First Mortgage Commitment Letter**"), pursuant to which KingSett agreed to provide, among other things: (i) a first mortgage in the principal amount of \$41,000,000; and (ii) Letters of Credit in the principal amount of \$3,500,000 (collectively, the "**On the Mark First Mortgage Loan Facility**"). Under the terms of the Original On the Mark First Mortgage Commitment Letter, the On the Mark First Mortgage Loan Facility: (i) bears interest at RBC Prime Rate plus 3.20% (floor rate of 5.65%) calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement; and (ii) without prejudice to KingSett's right to demand repayment at any time for any reason whatsoever, matures 18 months from the date of the initial advance under the On the Mark First Mortgage Loan Facility. A copy of the Original On the Mark First Mortgage Commitment Letter is attached hereto as **Exhibit "EE"**.

71. The parties have amended the Original On the Mark First Mortgage Commitment Letter (as amended, the "**On the Mark First Mortgage Commitment Letter**") pursuant to four (4) amendments dated July 27, 2021 (the "**First On the Mark First Mortgage Amendment**"), November 29, 2021 (the "**Second On the Mark First Mortgage Amendment**"), January 7, 2022

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<sup>8</sup> Terms used but not otherwise defined in this section shall have the meanings ascribed to them in the On the Mark First Mortgage Commitment Letter.

(the "**Third On the Mark First Mortgage Amendment**") and January 18, 2023 (the "**Fourth On the Mark First Mortgage Amendment**") and together with the First On the Mark First Mortgage Amendment, the Second On the Mark First Mortgage Amendment and the Third On the Mark First Mortgage Amendment, the "**On the Mark First Mortgage Amendments**"). Copies of the On the Mark First Mortgage Amendments are attached hereto as **Exhibit "FF"**.

72. Principally, the On the Mark First Mortgage Amendments provided as follows:

- (a) *First On the Mark First Mortgage Amendment* – amended the Collateral, Interest Reserve, Allocation of Net Closing Proceeds sections of the Original On the Mark First Mortgage Commitment Letter and increased first mortgage portion of the On the Mark First Mortgage Loan Facility from \$41,000,000 to \$42,010,000.
- (b) *Second On the Mark First Mortgage Amendment* – amended the Permitted Encumbrances section of the Original On the Mark First Mortgage Commitment Letter.
- (c) *Third On the Mark First Mortgage Amendment* – amended the Extension Option and Extension Fee sections of the Original On the Mark First Mortgage Commitment Letter.
- (d) *Fourth On the Mark First Mortgage Amendment* – further amended the Extension Option and Extension Fee sections of the Original On the Mark First Mortgage Commitment Letter.

73. As of April 11, 2023, the total indebtedness under the On the Mark First Mortgage Commitment Letter is \$20,056,316.14 (the "**On the Mark First Mortgage Indebtedness**").

74. As general and continuing security for the payment and performance of On the Mark's obligations under the On the Mark First Mortgage Commitment Letter, KingSett was granted various security by On the Mark and certain of its principals (collectively, the "**On the Mark First Mortgage Security**").

75. Among other things, the On the Mark First Mortgage Security granted by On the Mark, includes:

- (a) a \$51,250,000 first ranking charge/mortgage in respect of the On the Mark Real Property (the "**On the Mark First Mortgage**"), governed by, among other things, the additional provisions registered therewith (the "**On the Mark First Mortgage Terms**");
- (b) an Assignment of Rents and Leases dated June 9, 2020 (the "**On the Mark First Mortgage Assignment of Rents**");
- (c) an Assignment of Insurance Interest dated June 9, 2020, attached hereto as **Exhibit "GG"**; and
- (d) a General Security Agreement dated June 9, 2020 (the "**On the Mark First Mortgage GSA**"), attached hereto as **Exhibit "HH"**.

76. Copies of the On the Mark First Mortgage, the On the Mark First Mortgage Terms and the On the Mark First Mortgage Assignment of Rents are attached hereto as **Exhibit "II"**. The On the Mark First Mortgage Commitment Letter, the On the Mark First Mortgage, the On the Mark First Mortgage Terms, the On the Mark Assignments of Rents and the On the Mark First Mortgage GSA are referred to collectively herein as the "**On the Mark First Mortgage Loan Documents**".

77. KingSett registered the On the Mark First Mortgage in the Land Registry Office (No. 65). Copies of the sub-searches of title conducted on April 24, 2023 (collectively, the "**On the Mark Parcel Registers**") in respect of the On the Mark Real Property evidencing the registration of the On the Mark First Mortgage and the On the Mark Assignment of Rents on title are attached hereto as **Exhibit "JJ"**.

78. KingSett also registered its security interest granted by On the Mark pursuant to the On the Mark GSA under the PPSA. KingSett's registration in this regard is reflected in the search results (the "**On the Mark PPSA Search Results**") conducted against On the Mark under the PPSA effective April 13, 2023, which are attached hereto as **Exhibit "KK"**.

*(i) On the Mark's Other Creditors*

79. As disclosed within the On the Mark Parcel Registers and the On the Mark PPSA Search Results, On the Mark has not granted security interests to any creditors other than KingSett in either its personal property or in the On the Mark Real Property.

80. KingSett is not aware of whether On the Mark has unsecured creditors.

*(e) Stateview Homes (On the Mark) Inc. - Second Mortgage<sup>9</sup>*

81. KingSett entered into a commitment letter dated May 13, 2020 with On the Mark (the "**Original On the Mark Second Mortgage Commitment Letter**"), pursuant to which KingSett agreed to provide, among other things, a second mortgage in the principal amount of \$12,000,000 (the "**On the Mark Second Mortgage Loan Facility**"). Under the terms of the Original On the

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<sup>9</sup> Terms used but not otherwise defined in this section shall have the meanings ascribed to them in the On the Mark 2<sup>nd</sup> Mortgage Commitment Letter.



Mark Second Mortgage Commitment Letter, the On the Mark Second Mortgage Loan Facility: (i) bears interest at RBC Prime Rate plus 9.55% (floor rate of 12.00%) calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement; and (ii) without prejudice to KingSett's right to demand repayment at any time for any reason whatsoever, matures 18 months from the date of the initial advance under the On the Mark Second Mortgage Loan Facility. A copy of the Original On the Mark Second Mortgage Commitment Letter is attached hereto as **Exhibit "LL"**.

82. The parties have amended the Original On the Mark Second Mortgage Commitment Letter (as amended, the "**On the Mark Second Mortgage Commitment Letter**") pursuant to four (4) amendments dated July 27, 2021 (the "**First On the Mark Second Mortgage Amendment**"), November 29, 2021 (the "**Second On the Mark Second Mortgage Amendment**"), January 7, 2022 (the "**Third On the Mark Second Mortgage Amendment**") and January 18, 2023 (the "**Fourth On the Mark Second Mortgage Amendment**" and together with the First On the Mark Second Mortgage Amendment, the Second On the Mark Second Mortgage Amendment and the Third On the Mark Second Mortgage Amendment, the "**On the Mark Second Mortgage Amendments**"). Copies of the On the Mark Second Mortgage Amendments are attached hereto as **Exhibit "MM"**.

83. Principally, the On the Mark Second Mortgage Amendments provided as follows:

- (a) *First On the Mark Second Mortgage Amendment* – amended the Collateral, Interest Reserve and Allocation of Net Closing Proceeds sections of the Original On the Mark Second Mortgage Commitment Letter and increased first mortgage portion of the On the Mark Second Mortgage Loan Facility from \$12,000,000 to \$12,090,000.

- (b) *Second On the Mark Second Mortgage Amendment* – amended the Permitted Encumbrances section of the Original On the Mark Second Mortgage Commitment Letter.
- (c) *Third On the Mark Second Mortgage Amendment* – amended the Extension Option and Extension Fee sections of the Original On the Mark Second Mortgage Commitment Letter.
- (d) *Fourth On the Mark Second Mortgage Amendment* – further amended the Extension Option and Extension Fee sections of the Original On the Mark Second Mortgage Commitment Letter.

84. As of April 11, 2023, the total indebtedness under the On the Mark Second Mortgage Commitment Letter is \$12,221,278.43 (the "**On the Mark Second Mortgage Indebtedness**").

85. As general and continuing security for the payment and performance of On the Mark's obligations under the On the Mark Second Mortgage Commitment Letter, KingSett was granted various security by On the Mark and certain of its principals (collectively, the "**On the Mark Second Mortgage Security**").

86. Among other things, the On the Mark Second Mortgage Security granted by On the Mark, includes:

- (a) a \$15,000,000 second ranking charge/mortgage in respect of the On the Mark Real Property (the "**On the Mark Second Mortgage**"), governed by, among other things, the additional provisions registered therewith (the "**On the Mark Second Mortgage Terms**");

- (b) an Assignment of Rents and Leases dated June 9, 2020 (the "**On the Mark Second Mortgage Assignment of Rents**");
- (c) an Assignment of Insurance Interest dated June 9, 2020, attached hereto as **Exhibit "NN"**; and
- (d) a General Security Agreement dated June 9, 2020 (the "**On the Mark Second Mortgage GSA**"), attached hereto as **Exhibit "OO"**.

87. Copies of the On the Mark Second Mortgage, the On the Mark Second Mortgage Terms and the On the Mark Second Mortgage Assignment of Rents are attached hereto as **Exhibit "PP"**. The On the Mark Second Mortgage Commitment Letter, the On the Mark Second Mortgage, the On the Mark Second Mortgage Terms, the On the Mark Second Mortgage Assignments of Rents and the On the Mark Second Mortgage GSA are referred to collectively herein as the "**On the Mark Second Mortgage Loan Documents**".

88. KingSett registered the On the Mark Second Mortgage in the Land Registry Office (No. 65). Copies of the On the Mark Parcel Registers in respect of the On the Mark Real Property evidencing the registration of the On the Mark Second Mortgage and the On the Mark Second Mortgage Assignment of Rents on title are attached hereto as **Exhibit "JJ"**.

89. KingSett also registered its security interest granted by On the Mark pursuant to the On the Mark Second Mortgage GSA under the PPSA. KingSett's registration in this regard is reflected in the On the Mark PPSA Search Results, which are attached hereto as **Exhibit "KK"**.

(i) *On the Mark's Other Creditors*

90. Details on On the Mark's other creditors are detailed in paragraphs 79 and 80 of this affidavit.

(f) *TLSFD Taurasi Holdings Corp.*<sup>10</sup>

91. KingSett entered into a commitment letter dated August 4, 2020 with Taurasi Holdings (the "**Original Taurasi Holdings Commitment Letter**"), pursuant to which KingSett agreed to provide, among other things, a first mortgage in the principal amount of \$8,400,000 (the "**Taurasi Holdings Loan Facility**"). Under the terms of the Original Taurasi Holdings Commitment Letter, the Taurasi Holdings Loan Facility: (i) bears interest at RBC Prime Rate plus 3.30% (floor rate of 5.75%) calculated daily, compounded and payable monthly, not in advance, both before and after maturity, default and/or judgement (the "**Taurasi Holdings Interest Rate**"); and (ii) without prejudice to KingSett's right to demand repayment at any time for any reason whatsoever, matures 12 months from the date of the initial advance under the Taurasi Holdings Loan Facility. A copy of the Original Taurasi Holdings Commitment Letter is attached hereto as **Exhibit "QQ"**.

92. The parties have amended the Original Taurasi Holdings Commitment Letter (as amended, the "**Taurasi Holdings Commitment Letter**") pursuant to two (2) amendments dated March 16, 2021 (the "**First Taurasi Holdings Amendment**") and February 16, 2022 (the "**Second Taurasi Holdings Amendment**") and together with the First Taurasi Holdings Amendment, the "**Taurasi Holdings Amendments**"). Copies of the Taurasi Holdings Amendments are attached hereto as **Exhibit "RR"**.

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<sup>10</sup> Terms used but not otherwise defined in this section shall have the meanings ascribed to them in the On the Mark 2<sup>nd</sup> Mortgage Commitment Letter.

93. Principally, the Taurasi Holdings Amendments provided as follows:
- (a) *First Taurasi Holdings Amendment* – amended and restated the Original Taurasi Holdings Commitment Letter and, among other things, increased the Taurasi Holdings Loan Facility from \$8,400,000 to \$21,755,000 and amended the Taurasi Holdings Interest Rate to Prime Rate plus 4.05% (floor rate of 6.50%).
  - (b) *Second Taurasi Holdings Amendment* – increased the Taurasi Holdings Loan Facility from \$21,755,000 to \$29,755,000 and amended the Taurasi Holdings Interest Rate to Prime Rate plus 4.30% (floor rate of 6.75%).
94. As of April 11, 2023, the total indebtedness under the On the Mark Second Mortgage Commitment Letter is \$30,139,394.81 (the "**Taurasi Holdings Indebtedness**").
95. As general and continuing security for the payment and performance of Taurasi Holdings' obligations under the Taurasi Holdings Commitment Letter, KingSett was granted various security by Taurasi Holdings and certain of its principals (collectively, the "**Taurasi Holdings Security**").
96. Among other things, the Taurasi Holdings Security granted by Taurasi Holdings, includes:
- (a) a \$37,200,000 first ranking charge/mortgage in respect of the Taurasi Holdings Real Property (the "**Taurasi Holdings Mortgage**"), governed by, among other things, the additional provisions registered therewith (the "**Taurasi Holdings Mortgage Terms**");
  - (b) an Assignment of Rents and Leases dated August 20, 2020 (the "**First Taurasi Holdings Assignment of Rents**");

- (c) an Assignment of Rents and Leases dated March 29, 2021 (the "**Second Taurasi Holdings Assignment of Rents**") and together with the First Taurasi Holdings Assignment of Rents, the "**Taurasi Holdings Assignment of Rents**");
- (d) an Assignment of Insurance Interest dated March 29, 2021, attached hereto as **Exhibit "SS"**; and
- (e) a General Security Agreement dated August 20, 2020 and a General Security Agreement dated March 29, 2021 (together, the "**Taurasi Holdings GSA**"), attached hereto as **Exhibit "TT"**.

97. Copies of the Taurasi Holdings Mortgage, the Taurasi Holdings Mortgage Terms and the Taurasi Holdings Assignment of Rents are attached hereto as **Exhibit "UU"**. The Taurasi Holdings Commitment Letter, the Taurasi Holdings Mortgage, the Taurasi Holdings Mortgage Terms, the Taurasi Holdings Assignments of Rents and the Taurasi Holdings GSA are referred to collectively herein as the "**Taurasi Holdings Loan Documents**".

98. KingSett registered the Taurasi Holdings Mortgage in the Land Registry Office (No. 65). Copies of the sub-searches of title conducted on April 24, 2023 (collectively, the "**Taurasi Holdings Parcel Registers**") in respect of the Taurasi Holdings Real Property evidencing the registration of the Taurasi Holdings Mortgage and the Taurasi Holdings Assignment of Rents on title are attached hereto as **Exhibit "VV"**.

99. KingSett also registered its security interest granted by Taurasi Holdings pursuant to the Taurasi Holdings GSA under the PPSA. KingSett's registration in this regard is reflected in the

search results (the "**Taurasi Holdings PPSA Search Results**") conducted against Taurasi Holdings under the PPSA effective April 13, 2023, which are attached hereto as **Exhibit "WW"**.

(i) *Taurasi Holdings' Other Creditors*

100. As disclosed within the Taurasi Holdings Parcel Registers and the Taurasi Holdings PPSA Search Results, in addition to KingSett, Taurasi Holdings has granted security interests to other creditors in both its personal property and/or the Taurasi Holdings Real Property. These creditors include Mercedes-Benz Financial Services Canada Corporation ("**Mercedes**") and TD Bank. As previously detailed and discussed, the TD Charge registration was not made with the consent of KingSett and as such gave rise to the TD Default.

101. The PPSA registration by Mercedes relates specifically to a 2021 Mercedes-BenzS580V4M bearing VIN: W1K6G7GB5MA028422.

102. KingSett is not aware of whether Taurasi Holdings has unsecured creditors.

(g) *Stateview Homes (High Crown Estates) Inc.*<sup>11</sup>

103. Dorr entered into a commitment letter dated June 17, 2021 with High Crown (the "**Original High Crown Commitment Letter**"), pursuant to which Dorr agreed to provide, among other things, a second mortgage in the principal amount of \$5,000,000 (the "**High Crown Loan Facility**").<sup>12</sup> Under the terms of the Original High Crown Commitment Letter, the High Crown Loan Facility: (i) bears interest at the greater of RBC Prime Rate plus 10.55% and 13%; and (ii) without prejudice to Dorr's right to demand repayment at any time for any reason whatsoever,

---

<sup>11</sup> Terms used but not otherwise defined in this section shall have the meanings ascribed to them in the High Crown Commitment Letter.

<sup>12</sup> Dorr is the servicer under the High Crown Commitment Letter, however, KingSett holds 100% of the beneficial economic interest.

matures 12 months from the date of the initial advance under the High Crown Loan Facility if the same occurs on the first calendar day of a month, otherwise matures 12 months from the first calendar day of the month next following the date of the initial advance of the High Crown Loan Facility (the "**High Crown Maturity Date**"). A copy of the Original High Crown Commitment Letter is attached hereto as **Exhibit "XX"**.

104. The parties have amended the Original High Crown Commitment Letter (as amended, the "**High Crown Commitment Letter**") and together with the Minu Commitment Letter, the Nao Commitment Letter, the Minu/Nao Commitment Letter, the On the Mark First Mortgage Commitment Letter, the On the Mark Second Mortgage Commitment Letter, and the Taurasi Holdings Commitment Letter, the "**Commitment Letters**" and each a "**Commitment Letter**") pursuant to four (4) amendments dated July 23, 2021 (the "**First High Crown Amendment**"), February 8, 2022 (the "**Second High Crown Amendment**"), August 15, 2022 (the "**Third High Crown Amendment**") and November 24, 2022 (the "**Fourth High Crown Amendment**" and together with the First High Crown Amendment, the Second High Crown Amendment and the Third High Crown Amendment, the "**High Crown Amendments**"). Copies of the High Crown Amendments are attached hereto as **Exhibit "YY"**.

105. Principally, the High Crown Amendments provided as follows:

- (a) *First High Crown Amendment* – amended the Partial Discharges section of the Original High Crown Commitment Letter.
- (b) *Second High Crown Amendment* – amended and replaced the Collateral Security and permitted the original \$1,100,000 partial paydown of the High Crown Loan Facility to be held in a trust account until 70% of the hard costs were fixed upon



which the \$1,100,000 would first be injected into the project to cover overruns (if any), and secondly, released to High Crown.

- (c) *Third High Crown Amendment* – extended the High Crown Maturity Date to December 1, 2022.
- (d) *Fourth High Crown Amendment* – extended the High Crown Maturity Date to March 1, 2023.

106. As of April 11, 2023, the total indebtedness under the High Crown Commitment Letter is \$4,000,592.77 (the "**High Crown Indebtedness**" and together with the Minu Indebtedness, the Nao Indebtedness, the Minu/Nao Indebtedness, the On the Mark First Mortgage Indebtedness, the On the Mark Second Mortgage Indebtedness and the Taurasi Holdings Indebtedness, the "**Indebtedness**").

107. As general and continuing security for the payment and performance of High Crown's obligations under the High Crown Commitment Letter, Dorr was granted various security by High Crown and certain of its principals (collectively, the "**High Crown Security**"). Additionally, collateral security was also granted by Minu and Nao (the "**High Crown Collateral Security**").

108. Among other things, the High Crown Security and the High Crown Collateral Security granted by High Crown, Minu and Nao, includes:

- (a) a \$6,250,000 second ranking charge/mortgage in respect of the High Crown Real Property (the "**High Crown Mortgage**"), governed by, among other things, the additional provisions registered therewith (the "**High Crown Mortgage Terms**");

- (b) a \$6,250,000 third ranking charge/mortgage in respect of the Nao Real Property and the Minu Real Property (the "**High Crown Collateral Mortgage**"), governed by, among other things, the additional provisions registered therewith (the "**High Crown Collateral Mortgage Terms**");
- (c) an Assignment of Rents and Leases dated July 20, 2021 (the "**High Crown Assignment of Rents**"); and
- (d) a General Security Agreement dated July 20, 2021 (the "**High Crown GSA**" , and together with the Minu GSA, the Nao GSA, Minu Second Mortgage GSA, the Nao Second Mortgage GSA, the On the Mark First Mortgage GSA, the On the Mark Second Mortgage GSA, the Taurasi Holdings GSA, the "**GSAs**"), attached hereto as **Exhibit "ZZ"**.

109. Copies of the High Crown Mortgage, the High Crown Mortgage Terms, the High Crown Collateral Mortgage, the High Crown Collateral Mortgage Terms and the High Crown Assignment of Rents are attached hereto as **Exhibit "AAA"**. The High Crown Commitment Letter, the High Crown Mortgage, the High Crown Mortgage Terms, the High Crown Collateral Mortgage, the High Crown Collateral Mortgage Terms, the High Crown Assignments of Rents and the High Crown GSA are referred to collectively herein as the "**High Crown Loan Documents**" and together with Minu Loan Documents, the Nao Loan Documents, the Minu/Nao Loan Documents, the On the Mark First Mortgage Loan Documents, the On the Mark Second Mortgage Loan Documents and the Taurasi Holdings Loan Documents, the "**Loan Documents**".

110. Dorr registered the High Crown Mortgage and the High Crown Collateral Mortgage in the Land Registry Office (No. 65). Copies of the sub-searches of title conducted on April 24, 2023

(collectively, the "**High Crown Parcel Registers**" and together with the Minu Parcel Registers, Nao Parcel Registers, On the Mark Parcel Registers and the Taurasi Holdings Parcel Registers, the "**Parcel Registers**") in respect of the High Crown Real Property, along with the Minu Parcel Registers and the Nao Parcel Registers, evidencing the registration of the High Crown Mortgage, the High Crown Assignment of Rents and the High Crown Collateral Mortgage on title are attached hereto as **Exhibit "BBB"**, **Exhibit "L"** and **Exhibit "T"**.

111. Dorr also registered its security interest granted by High Crown pursuant to the High Crown GSA under the PPSA. Dorr's registration in this regard is reflected in the search results (the "**High Crown PPSA Search Results**") conducted against High Crown under the PPSA effective April 13, 2023, which are attached hereto as **Exhibit "CCC"**.

112. KingSett, Dorr and High Crown are party to a Subordination and Standstill Agreement dated August 3, 2021 wherein Dorr agreed to subordinate and postpone the High Crown Indebtedness and the High Crown Security to and in favour of the first lien indebtedness and security. Dorr has received written consent from Dorr (in its capacity as first lien mortgagee) to seek the proposed Receivership Order in connection with the High Crown Real Property.

(i) *High Crown's Other Creditors*

113. As disclosed within the High Crown Parcel Registers and the High Crown PPSA Search Results, High Crown has not granted security interests to any creditors other than Dorr and KingSett in either its personal property or in the High Crown Real Property.

114. Dorr is not aware of whether High Crown has unsecured creditors.

#### IV. THE DEFAULTS, THE DEMAND LETTERS AND NITES

115. As was previously discussed, certain events of default under the Loan Documents have occurred and are continuing. More specifically, and as discussed in greater detail above:

- (a) on or around April 3, 2023, each of the Debtors committed the Interest Payment Defaults when they failed to make their monthly interest payment in accordance with their obligations under the relevant Commitment Letter. These Interest Payment Defaults amount to approximately \$1,159,616.42 in the aggregate;
- (b) on April 1, 2023 and March 1, 2023, as the case may be, the Maturity Date (as defined in the Commitment Letters), in respect of the On the Mark First Mortgage Loan Facility, the On the Mark Second Mortgage Loan Facility, the High Crown Loan Facility and the Taurasi Holdings Loan Facility, passed without any extensions being granted;
- (c) on or around April 6, 2023, as a result the Unauthorized Overdraft and the resulting TD Settlement Agreement, the TD Charge was registered against the Taurasi Holdings Real Property absent KingSett's consent and in breach of the Taurasi Holdings Loan Documents;
- (d) the Debtors knowingly, underhandedly and in breach of the Loan Documents diverted large sums of money advanced in connection with the Loan Facilities by failing to use funds advanced for their required purposes;
- (e) the Liens have been registered against the On the Mark Real Property in connection with amounts owing to certain contractors and subcontractors which has led to

safety and project completion concerns and has resulted in the failure or delay of certain closings in connection with the On the Mark Townhomes; and

- (f) On the Mark has not remitted HST payable in connection with the sale of at least certain of the On the Mark Townhomes that have closed to date.

116. On April 12, 2023, the Applicants issued demand letters (collectively, the "**Demand Letters**" and each a "**Demand Letter**") to each of the Debtors, advising each Debtor that it was in default pursuant to the terms of its Commitment Letter. Each Demand Letter was delivered to the relevant Debtor contemporaneously with the NITES in accordance with section 244 of the BIA. Copies of the Demand Letters and the accompanying NITES are attached hereto as **Exhibit "DDD"**.

## **V. PROPOSED RECEIVERSHIP**

117. The ten-day period afforded to the Debtors under the Demand Letters and NITES to repay the Indebtedness prior to the Applicants taking any enforcement action expired on April 22, 2023. For the reasons detailed in this affidavit including, without limitation, the Unauthorized Overdraft in excess of \$37,000,000 which the Debtors took 2.5 weeks to advise the Applicants about, the defaults of the Debtors (including maturity date and interest payment defaults), and the improper diversion of funds advanced by the Applicants, the Applicants have lost all confidence, faith and trust in the Debtors and their management.

118. The Debtors' have no liquidity, no ability to immediately raise capital, and liens are being registered against certain of the Real Property. As previously discussed, the Liens are currently impacting the ability to close a number of transactions for the On the Mark Townhomes which is impacting all stakeholders of On the Mark, including third party purchasers. The appointment of

a receiver will facilitate these transactions closing. In addition, trades are unpaid, and I am advised that construction of the On the Mark project has halted as a result. Any issues relating to the Liens and the transaction proceeds can be dealt with in the Receivership Proceedings.

119. Pursuant to the Loan Documents, the Applicants have a contractual right to the appointment of a receiver upon a default and/or event of default, as applicable. Further, pursuant to the Commitment Letters, the Debtors have consented to the Applicants' appointment of a receiver or receiver manager, either privately or pursuant to Court-appointment.

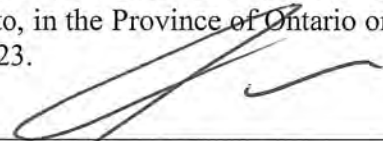
120. The Applicants believe that if the Receiver is appointed on the terms of the proposed Receivership Order, the Receivership Proceedings will provide the stability and supervision required to preserve and maximize the value of the Property for the benefit of all stakeholders, including the Applicants. Moreover, the Applicants believe that the proposed Court-supervised Receivership Proceedings are the only viable means protect and maximize value for the benefit of the Debtors' creditors and other stakeholders in the circumstances.

121. In light of all of the foregoing, I believe that the appointment of a receiver and manager over the Property is just and convenient.

122. KSV is prepared to act as the Receiver if so appointed. I am advised by Noah Goldstein of KSV that KSV is a "licensed trustee" as such term is defined in the BIA and has extensive experience in Canadian insolvency proceedings, including with respect to real estate developments. A copy of KSV's consent to act as the Receiver is attached hereto as **Exhibit "EEE"**.

123. I swear this affidavit in support of the Applicants' application to appoint the Receiver over the Property, and for no improper purpose.

SWORN BEFORE ME in the City of )  
Toronto, in the Province of Ontario on April )  
26, 2023. )



**AIDEN NELMS**

A Commissioner for Oaths in and for the )  
Province of Ontario )  
)  
)  
)  
)  
)  
)



**DANIEL POLLACK**

**This is Exhibit "I" referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



---

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

**JONATHAN SILVER**



# Toronto-area housing developments at risk as lenders accuse StateView Homes of wrongdoing

SHANE DINGMAN > REAL ESTATE REPORTER

PUBLISHED APRIL 26, 2023

UPDATED APRIL 27, 2023

FOR SUBSCRIBERS

The future of hundreds of unbuilt townhouses is in limbo as Toronto-area home builder StateView Homes deals with fallout caused by an alleged “cheque-kiting” scheme that ran up debts of \$37-million.

A lawsuit filed by Toronto-Dominion Bank

[TD-T \(/investing/markets/stocks/TD-T/\)](/investing/markets/stocks/TD-T/) +1.82% ▲ on March 24 alleges a series of “fraudulent cheques” were used to manipulate the bank’s overdraft system, costing the bank \$37-million between April, 2022, and March, 2023.

TD claims a series of bad cheques from several StateView business accounts at Royal Bank of Canada [RY-T \(/investing/markets/stocks/RY-T/\)](/investing/markets/stocks/RY-T/) +0.64% ▲ were deposited in dozens of TD accounts associated with StateView real estate projects.

The lawsuit claims StateView – founded in 2010 by brothers Dino and Carlo Taurasi with friend and **chief financial officer** Daniel Ciccone – repeatedly deposited cheques written on the RBC accounts into the TD accounts, and the Canadian Clearing and Settlement Systems (which handles transactions between financial institutions) conditionally credited the value of the cheques to the TD account “pending final settlement.”

TD alleges that before the transfer cleared, however, StateView moved the conditionally credited money out – either to a different account at another bank, or wire transferred it to a third party – and then stopped payment on the original RBC cheques. To avoid detection of this scheme, called cheque-kiting, TD further alleges

StateView processed a large volume of “sham transactions” between other TD accounts.

None of the allegations have been tested in court, and TD and its lawyers at McCarthy Tétrault LLP declined to comment as the matter is still before the courts.

StateView didn't comment on allegations of cheque fraud outlined by TD but in an e-mailed statement vice-president of marketing Darryl Orian said: “Unfortunately, as the situation is ongoing, StateView Homes cannot comment on the circumstances or details leading to a settlement with TD.”

StateView issued a fuller statement Tuesday addressing “rumours and speculation around the solvency of the organization,” stressing it was not declaring bankruptcy. StateView also said Mr. Ciccone, the CFO, has been relieved of his position in the company.

“StateView has faced significant disruptions in its treasury functions at its current financial institution, which has unfortunately resulted in StateView's liquidity being constrained,” the statement reads. “StateView intends to complete all projects currently under construction and is actively working with our partners to move forward with as many projects as possible while also recognizing the position of our lenders.”

In the wake of TD's filings, StateView is facing demands for repayment from at least two other lenders that could see an unfinished townhouse project (Nao Towns Phase II in Markham, Ont., with 96 units) pushed into insolvency.

Lawyers for Dorr Capital Corp. and Atrium Mortgage Investment Corp. have requested a hearing – scheduled for Friday at Ontario's Superior Court of Justice – to argue for the appointment of a receiver to ensure the lenders can collect \$24.4-million that the companies say they are owed.

According to a statement of claim filed by Dorr and Atrium, StateView missed a \$277,598.63 loan payment for the Nao project on April 1, after which it registered a new mortgage (from TD) against the property without written consent or notice.

Moreover, Dorr and Atrium describe the alleged cheque-kiting scheme as “a material adverse change ... relating to the debtor and the guarantors” because the \$37-million StateView owes TD is “a debt and liability arising out of fraud.”

StateView’s website says it has completed construction on nine projects since its founding, and the Home Construction Regulatory Authority’s registry shows it has 279 completed units, including 28 handed over in 2023.

StateView also has several Ontario projects under construction, sold out or “fully reserved” that may now be subject to reorganization of StateView’s debts. Those include: High Crown Estates in King City (48 units), MiNu Towns in Markham (147 units), On the Mark in Markham (164 units), Elia Collection in Newmarket (72 units), Queen’s Court in Brampton (82 towns and detached homes), Elm & Co. in Stouffville (202 units) and BEA Towns in Barrie (218 units).

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**This is Exhibit “J” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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**JONATHAN SILVER**

THE LISTING

# Fourth lender adds demand for repayment of loans to developer StateView

**SHANE DINGMAN** > REAL ESTATE REPORTER

TORONTO

PUBLISHED MAY 10, 2023

UPDATED MAY 11, 2023



A Meridian employee works at the credit union's office in Toronto's financial district.

THE GLOBE AND MAIL

A fourth lender has demanded repayment of millions in loans from troubled Toronto-area land developer StateView Homes.

On May 5, Meridian Credit Union Ltd. filed an application to appoint a receiver for StateView Homes (Elm&Co) Inc., which was planning to build 206 townhouses on

raw land at 12942 York Durham Line in Stouffville, Ont., near a GO Transit station. Meridian is seeking repayment of \$17.8-million it loaned StateView on Dec. 5, 2022. In its filing, it warns the court that three other lenders subsequently loaned the Elm site another \$27-million, but that a \$20.8-million charge registered by Bergo Investment Inc., MCO Management Inc. and Tony Karamitsos on Dec. 16, 2022 was unauthorized.

On May 2, lenders Kingsett Mortgage Corp., Dorr Capital Corp., and Atrium Mortgage Investment Corp., succeeded in getting a court-appointed receiver to sort out six StateView projects with more than 700 unbuilt townhomes. Together with Meridian's demands and the Bergo/MCO loans StateView owes its lenders at least \$260-million.

StateView is also operating under an aggressive repayment settlement as a result of a \$37-million cheque-kiting fraud the company has blamed on a "rogue" former chief financial officer.

According to settlement agreement endorsed by Ontario Superior Court Justice Koehnen on April 4, StateView agreed to pay \$3.15-million upon signing a settlement over the fraud, a second payment of \$6.15-million by April 17, and another \$6.15-million by May 1. Three more payments of the same amount are due on May 31, June 15, June 30 with any outstanding balance owed by July 14.

The settlement warns that if StateView misses any payments TD will immediately move to insolvency on StateView assets (a process already underway on at least some of the properties TD's registered second or third mortgages against) "without any grace period for payment."

StateView's lenders have asserted in various court filings that StateView has in recent months missed interest payments, tax payments and municipal fee deadlines and appears to have a cash crisis and no liquidity.

In the past two weeks, StateView has listed four of 11 commercial condominium units – for prices between \$1.7-million and \$2.2-million – it purchased in recent years at 410 Chrislea Rd. in Woodbridge, Ont.

Realtor Luca Carbone with Royal LePage Real Estate Professionals is acting as the listing agent for StateView's commercial units and has also listed for assignment sale three unfinished townhouses StateView is building at On the Mark (34 Markland St., listed for \$1.49-million) and High Crown Estates (units 38 and 48 at 13151 Keele St. for \$1.49-million and \$1.999-million).

Typically, developers hold tight control of preconstruction assignment sales, and sellers must obtain their approval for any assignment of a contract. In the case of the StateView units it is unclear who would grant that permission now that both projects are under the control of court-appointed receiver KSV Restructuring Inc., who are granted wide authority to manage the company's business affairs until lenders are repaid. Requests for comment to KSV went unanswered.

Not included in the TD settlement is Daniel Ciccone, the **former** CFO of StateView. Mr. Ciccone has filed a notice to defend himself against the civil suit brought by TD.

Mr. Ciccone also listed one of his properties for sale in recent weeks: his new-build home (with salt-water pool and luxury kitchen) in Richmond Hill, Ont., is on sale for \$4,288,000. According to property records, Mr. Ciccone bought a second luxury home in King City, Ont., for \$5-million on Feb. 9, 2023, just weeks before TD froze StateView's business accounts for the alleged fraud. Built in 2002 on a 2.5-acre site, the house was previously sold for \$3.8-million in 2019.

Property records show StateView's financial situation was precarious long before the cheque-kiting scheme came to light. In the case of BEA Towns in Barrie, Ont., property records show StateView paid \$25.6-million in April, 2022 for the land and registered a \$37.5-million loan on the property from Dorr Capital at the same time. On Dec. 16, 2022, StateView registered a loan of \$20.8-million from Bergo, MCO and Mr. Karamitsos – the same day it registered a \$20-million loan on the Elm&Co land in Stouffville. Neither Bergo or MCO responded to requests for comment. Only initial excavation work appears to have been started at the BEA Towns site.

On May 5, KSV sent a notice to hopeful buyers who hold agreement of purchase and sale contracts (APS) with StateView warning them that their deposits were gone.

“The receiver has been advised . . . that none of the deposits remain in any of the companies’ bank accounts and all deposits were spent on direct and indirect project costs prior to the commencement of the receivership proceedings,” the notice reads. “The receiver has not independently determined, at this time, the use of the deposits.”

KSV outlined for buyers that any deposits they are able to recover will come from home warranty provider Tarion, which provides up to \$40,000 in insurance for APS agreements signed before 2018, and up to 10 per cent of a home’s purchase price (up to a maximum \$100,000) for home’s worth more than \$600,000 for contracts signed after 2018. Court filings suggest there are dozens, if not hundreds, of buyers who have already paid more than \$100,000 in deposits to StateView companies.

“I couldn’t sleep for two nights. . . . I literally feel like crying,” said one buyer in BEA who spoke to The Globe. The Globe is not sharing the buyer’s name because she has not yet informed her husband that for the second time in recent years a preconstruction condo the couple invested in has fallen into receivership. “It is very stressful, another builder did the same and held our money for four years,” she said. “They [builders] get rich and they don’t care about people like me who give them \$80,000. I had to cut my daughter’s gymnastic class to afford it. It’s been hard. Who is going to compensate us for that?”

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Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**



**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

<b>Contents</b>		<b>Page</b>
1.0	Introduction.....	2
	1.1 Purposes of this Report.....	3
	1.2 Restrictions .....	4
2.0	Background .....	4
	2.1 The Stateview Group .....	4
	2.2 Toronto-Dominion Bank .....	5
	2.3 The Receivership Companies .....	6
	2.3.1 Industrial Properties .....	7
3.0	Creditors.....	7
4.0	Receiver’s Preliminary Findings.....	8
	4.1 Overview.....	8
	4.2 Cash .....	8
	4.2.1 Elm Cash .....	9
	4.2.2 On the Mark HST Proceeds .....	10
	4.3 Homebuyers.....	10
5.0	Sale Process .....	12
	5.1 Realtor Selection Process .....	12
	5.2 Sale Process.....	13
	5.3 Listing Agreements .....	17
	5.4 Sale Process Recommendation .....	17
6.0	On the Mark.....	18
7.0	Securing Data and Information .....	18
8.0	Receiver’s Activities.....	19
9.0	Conclusion.....	20
<b>Appendices</b>		
<b>Appendix</b>		<b>Tab</b>
	TD Order dated April 4, 2023 .....	A
	Letter to BDO dated May 12, 2023.....	B
	Norton Rose email dated May 17, 2023.....	C
	Tarion Notice to Homebuyers.....	D
	RFP Materials.....	E
	Summary of Realtor Commissions.....	F



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 2<sup>nd</sup> Receivership Orders”) appointing KSV Restructuring Inc. (“KSV”) as the receiver and manager (the “Receiver<sup>1</sup>”) 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.

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

2. The Court issued an order (the “May 18<sup>th</sup> Receivership Order” and together with the May 2<sup>nd</sup> 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 <sup>th</sup> 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>	
<b>Real Property<sup>2</sup></b>	<b>Amount Owing</b>
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
<b>Total</b>	<b>349,945</b>

<sup>2</sup> 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 2<sup>nd</sup> 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 balances<sup>3</sup>:

(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
<b>Total</b>	<b>1,095</b>

#### 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")<sup>4</sup>, 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

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

<sup>4</sup> 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 2<sup>nd</sup> 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 <sup>5</sup>	32	4,218
Nao Phase II	76	7,617
Highview	4	None
BEA	218	17,440
Elm	145	16,076
<b>Total</b>	<b>765</b>	<b>77,172</b>

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.

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<sup>5</sup> 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 2<sup>nd</sup> 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"> <li>➤ Realtors and the Receiver to:               <ul style="list-style-type: none"> <li>○ prepare a teaser and confidential information memorandum (“CIM”) for each Project;</li> <li>○ populate virtual data rooms for each Project; and</li> <li>○ prepare a confidentiality agreement (“CA”).</li> </ul> </li> </ul>	As soon as possible, but no later than June 21, 2023
Prospect Identification	<ul style="list-style-type: none"> <li>➤ For each Real Property, realtors to:               <ul style="list-style-type: none"> <li>○ develop master prospect lists;</li> <li>○ prioritize prospects;</li> <li>○ have pre-marketing discussions with targeted prospects;</li> <li>○ engage in discussions with planners, consultants and municipalities; and</li> <li>○ consult with the Receiver regarding the above.</li> </ul> </li> </ul>	
Consulting Reports	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>	
<i>Phase 2 – Marketing and Diligence</i>		
Stage 1	<ul style="list-style-type: none"> <li>➤ Mass market introduction, including:               <ul style="list-style-type: none"> <li>○ sending offering summary and marketing materials, including marketing brochure to each realtors' client base, including specifically targeted prospects;</li> <li>○ publishing the acquisition opportunity in such journals, publications and online as the realtor and the Receiver believe appropriate to maximize interest in this opportunity;</li> <li>○ posting “for sale” signs on each Real Property, to the extent applicable;</li> <li>○ 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;</li> </ul> </li> </ul>	Estimated to be 4 to 5 weeks from launch.



Summary of Sale Process		
Milestone	Description of Activities	Timeline
	<ul style="list-style-type: none"> <li>o posting the acquisition opportunity on MLS for each Project on an unpriced basis, if requested by the Receiver; and</li> <li>o meeting with prospective bidders to explain the potential of each site.</li> <li>➤ 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.</li> <li>➤ Realtors to provide additional information to qualified prospects which execute the CA, including access to data rooms and a copy of the CIM.</li> <li>➤ Realtors and Receiver to facilitate diligence by interested parties.</li> </ul>	
Stage 2 – Bid Deadline	<ul style="list-style-type: none"> <li>➤ Prospective purchasers to submit offers in the form of the PSA, with any changes to the PSA blacklined.</li> </ul>	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"> <li>➤ 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.</li> <li>➤ Short listing of bidders.</li> <li>➤ 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.</li> <li>➤ The Receiver will be at liberty to consult with Mortgagees regarding the offers received, subject to any confidentiality requirements that the Receiver believes appropriate.</li> <li>➤ The Receiver will select the successful bidder(s), having regards to, among other things: <ul style="list-style-type: none"> <li>○ total consideration (cash and assumed liabilities);</li> <li>○ form of consideration, including the value of any carried interest;</li> <li>○ third-party approvals required, if any;</li> <li>○ conditions, if any, and time required to satisfy or waive same; and</li> <li>○ such other factors affecting the speed and certainty of closing and the value of the offers as the Receiver considers relevant.</li> </ul> </li> </ul>	Two weeks from offer bid deadline
Selected bidders to perform final due diligence	<ul style="list-style-type: none"> <li>➤ Bidders to address their conditions.</li> <li>➤ Back up bidders will be kept “warm” in order to have options in case selected bidder does not close.</li> </ul>	30 to 60 days from selection of successful bidders
Sale Approval Motion(s) and Closing(s)	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>	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"> <li>➤ Following Court approval</li> </ul>	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.<sup>6</sup> 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;

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<sup>6</sup> 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-Receiverhip 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 2<sup>nd</sup> 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 “A”



Court File No.: CV-23-00696833-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE	)	WEDNESDAY, THE
	)	
JUSTICE KOEHNEN	)	4 <sup>TH</sup> DAY OF APRIL, 2023
	)	

B E T W E E N :

THE TORONTO-DOMINION BANK

Plaintiff

- and -

LUXVIEW FINE HOMES CORPORATION, STATEVIEW CONSTRUCTION LTD., STATEVIEW HOMES (ASHBURN HEIGHTS) INC., STATEVIEW HOMES (BALDWIN HEIGHTS) INC., STATEVIEW HOMES (BEA TOWNS) INC., STATEVIEW HOMES (BONAVENTURE) INC., STATEVIEW HOMES (EDGE TOWNS) INC., STATEVIEW HOMES (ELIA COLLECTION) INC., STATEVIEW HOMES (ELM&CO) INC., STATEVIEW HOMES (HAMPTON HEIGHTS) INC., STATEVIEW HOMES (HIGH CROWN ESTATES) INC., STATEVIEW HOMES (KINGS LANDING PHASE II) INC., STATEVIEW HOMES (KINGS LANDING) INC., STATEVIEW HOMES (MAIN & CO) INC., STATEVIEW HOMES (MINU TOWNS) INC., STATEVIEW HOMES (NAO TOWNS) INC., STATEVIEW HOMES (ON THE MARK) INC., STATEVIEW HOMES (OOH LALA TOWNS) INC., STATEVIEW HOMES (QUEEN'S COURT) INC., STATEVIEW HOMES (RIALTO TOWNS) INC., STATEVIEW HOMES (TESORO COLLECTION) INC, TAURA DEVELOPMENTS INC., LIVE INSPIRED ORGANIZATION, HIGHVIEW BUILDING CORP INC., NORTHGATE FINE HOMES INC., TLSFD TAURASI HOLDINGS CORP. CARLO TAURASI, DINO TAURASI, DANIEL CICCONE, ANTHONY TAURASI, EMILIO TAURASI, DENNIE TAURASI, MELISSA TAURASI, NELDA TAURASI, ABC INC., XYZ INC, AND ROYAL BANK OF CANADA

Defendants

**ORDER  
(implementing the Settlement Agreement dated March 31, 2023)**

**THIS MOTION**, made by TD (defined in section 1 of this Order) for an order providing relief in order to implement the Settlement Agreement (defined in section 1 of this Order), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON CONSENT** of TD and the State View Settling Defendants, and upon being advised that none of the other defendants oppose the relief granted in this order.

**AND ON HEARING** the submissions of the lawyers for TD and the lawyers for the State View Settling Defendants:

1. **THIS COURT ORDERS** that, for purposes of this Order:

- (a) **“Added Defendants”** means StateView Homes (Nao Towns II) Inc. and StateView Homes (Ivory Oak Estates) Inc.;
- (b) **“Information Officer”** has the meaning ascribed in para. 3 of this order;
- (c) **“Settlement Agreement”** means the settlement agreement dated March 31, 2023 between the State View Settling Defendants and TD;
- (d) **“State View Companies”** means all of the State View Settling Defendants except Carlo Taurasi and Dino Taurasi;
- (e) **“State View Settling Defendants”** means all of the Defendants in this action (including the Added Defendants) with the exception of Daniel Ciccone, Anthony Taurasi, Emilio Taurasi, Dennie Taurasi, Melissa Taurasi, Nelda Taurasi, ABC Inc., XYZ Inc., and Royal Bank of Canada; and
- (f) **“TD”** means The Toronto-Dominion Bank.

2. **THIS COURT ORDERS** that the Added Defendants are added as defendants to this action.

3. **THIS COURT ORDERS** that the State View Settling Defendants are authorized and directed to make the payments to TD provided for in section 2 of the Settlement Agreement. Such payments shall be made from the lawyers for the State View Settling Defendants (RAR Litigation Lawyers in trust) to the lawyers for TD (McCarthy Tétrault LLP in trust).

4. **THIS COURT ORDERS** that BDO Canada Limited (“**BDO**”) is appointed as an officer of the Court to act as Information Officer in respect of the State View Companies, and that:

- (a) The State View Settling Defendants shall forthwith provide to the Information Officer with unrestricted access to all of the books, records and other financial information relating to the State View Companies.
- (b) The Information Officer shall gain an understanding of the State View Companies’ corporate structure, organization chart including directors and related parties and cash flow management/treasury functions.
- (c) The Information Officer shall gain an understanding of the State View Companies’ governance policies with regards to treasury functions (who can initiate wires, sign cheques) and other functional areas as required (confirmation of restricted access to certain individuals).
- (d) If and to the extent requested by TD or the State View Companies, the Information Officer shall monitor the business of the State View Companies and the transactions entered into by it, including, without limitation:

- (i) review, the historical, the source and application of funds received and disbursed by the State View Companies, and the deposit of funds into the bank accounts of the State View Companies;
  - (ii) monitor, on an ongoing basis, the source and application of funds received and disbursed by the State View Companies, and the deposit of funds into the bank accounts of the State View Companies;
  - (iii) monitor the activities of the State View Companies to ensure that appropriate cash management is being undertaken at all times; and
  - (iv) review the books and records and computer files, records, software and other systems as necessary.
- (e) The Information Officer shall report to TD and the State View Companies from time to time on the financial circumstances of the State View Companies including, without limitation, with respect to their assets, liabilities, cash flows, intercompany transfers, and payments to related parties or shareholders.
- (f) The Information Officer shall not take possession of any of the assets of the State View Companies, or manage any of the businesses or affairs of the State View Companies. The Information Officer shall not, by fulfilling its obligations under this order, be deemed to have taken possession, occupation, management or control of any of the assets of the State View Companies.
- (g) The Information Office is at liberty to bring a motion to seek directions from the Court as required.

5. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to BDO herein, BDO shall incur no liability as a result of its appointment or the carrying out of the provisions of this order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this order shall derogate from the protections afforded to BDO as an officer of the Court.

6. **THIS COURT ORDERS** that the State View Settling Defendants shall pay the fees and expenses of the Information Officer.

7. **THIS COURT ORDERS** that, notwithstanding subsection 437(2) of the *Bank Act*, S.C. 1991, c. 46, Royal Bank of Canada may lift the restraint on deposit accounts belonging to the State View Settling Defendants, which were implemented pursuant to subsection 437(2) of the *Bank Act*, S.C. 1991, c. 46, by the commencement of this action. As the inclusion of this provision is a compromise sought by TD Bank and the State View Settling Defendants, Royal Bank of Canada shall not be responsible for monitoring the State View Settling Defendants' deposit accounts, nor any transactions by them made possible by the lifting of any restraint. This provision is without prejudice to the ability of TD Bank to bring a motion seeking to restrain deposit accounts belonging to the State View Settling Defendants, including under subsection 437(2) of the *Bank Act*, S.C. 1991, c. 46, if there is a Default (as that term is defined in the Settlement Agreement) by the State View Settling Defendants under the Settlement Agreement.

8. **THIS COURT ORDERS** that TD is at liberty to bring a motion to the Court for further relief, directions, assistance, clarifications and further orders, including orders in relation to any breach of this order.

PLJ

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## Appendix “B”

# Cassels

May 12, 2023

**Via E-Mail**

BDO Canada Limited  
20 Wellington Street East,  
Suite 500  
Toronto, ON M5E 1C5

amerskey@cassels.com  
tel: +1 416 860 2948  
fax: +1 416 360 8877  
file # 057984-00009

Attention: Clark Lonergan  
Partner/Senior Vice President,  
Business Restructuring &  
Turnaround Services

Dear Mr. Lonergan:

**Re: 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. (the “Stateview On the Mark et al. Receivership”)**

**And Re: Receivership of Highview Building Corp Inc., Stateview Homes (Bea Towns) Inc. and Stateview Homes (Nao Towns II) Inc. (the “Stateview Highview et al Receiverships” and together with the Stateview On the Mark et al Receivership, the “Stateview Receiverships”)**

We are the lawyers for KSV Restructuring Inc. (“**KSV**”) in its capacity as receiver and manager in the Stateview On the Mark et al Receivership. Mr. Larry, copied, is counsel to KSV in its capacity as receiver and manager in the Stateview Highview et al Receiverships. We are writing this letter on our own behalf and on behalf of Mr. Larry.

We understand that BDO Canada Ltd (“**BDO**”) was appointed information officer (“**Information Officer**”) over a number of Stateview Homes entities, with a mandate to, among other things:

- a) review the historical, the source and application of funds received and disbursed by the Stateview companies and the deposit of funds into the bank accounts of the Stateview companies;
- b) monitor on an ongoing basis, the source and application of funds received and disbursed by the Stateview companies, and the deposit of funds into the bank accounts of the Stateview companies;



- c) monitor the activities of the Stateview companies to ensure that appropriate cash management was being undertaken;
- d) review the books and records and computer files, records, software and other systems of the Stateview companies as necessary; and
- e) report from time to time on the financial circumstances of the Stateview companies, including with respect to their assets, liabilities, cash flows, intercompany transfers and payments to related parties or shareholders.

Pursuant to the orders of Justice Steele dated May 2, 2023 commencing the Stateview Receiverships (collectively, the “**Receivership Orders**”), KSV is entitled to, among other things:

1. investigate intercompany payments or transaction that appear to be out of the ordinary court of business;
2. compel the delivery by any person having knowledge of any information or documents related to the debtor entities in connection with such investigations; and
3. access any property of the debtors (including books and records) in the possession of the Information Officer and the cooperation of the Information Officer with respect thereto.

KSV understands that funds have been transferred from at least some of the bank accounts of the Stateview Receiverships entities following the appointment of the Information Officer, as well as from the account of Stateview Homes (Elm & Co) Inc., for which a receivership application is scheduled to be heard on May 18, 2023. We are therefore writing to request 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 including, without limitation, Stateview Homes Limited or any of the other Stateview entities, along with the use of such transferred funds by the recipient entity, for the period from the appointment of BDO as Information Officer to the date of the Receivership Orders.

Please also confirm whether any of the Stateview entities have made any payments to TD Bank since the appointment of BDO as Information Officer.

Finally, kindly confirm as soon as possible if the Information Officer has undertaken a full backup of all electronic records of the Stateview entities, including without limitation Stateview Homes Limited. If that has not yet been completed, we hereby request that the Information Officer immediately undertake and complete such back up to ensure that all information and

May 12, 2023  
Page 3

records are property preserved. If you require any assistance with doing so, KSV is available to assist.

We look forward to your prompt response.

Yours truly,

Cassels Brock & Blackwell LLP



Alan Merskey  
Partner

cc Bobby Kofman/Noah Goldstein  
Jeff Larry  
Ryan Jacobs/Joseph Bellissimo

AM/:ph

## Appendix “C”

**Murtaza Tallat**

---

**Subject:** RE: [EXT] KSV Restructuring Inc. re Stateview on the Mark Receivership and Stateview Highview et al Receiverships [IWOV-LEGAL.057984-00009] [NRFC-EDMRS.FID13837538]

**From:** James Renihan (he/him) <[james.renihan@nortonrosefulbright.com](mailto:james.renihan@nortonrosefulbright.com)>

**Sent:** Wednesday, May 17, 2023 9:42 PM

**To:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jennifer Stam <[jennifer.stam@nortonrosefulbright.com](mailto:jennifer.stam@nortonrosefulbright.com)>; Lonergan, Clark <[clonergan@bdo.ca](mailto:clonergan@bdo.ca)>; Hoogenband, Patricia <[phoogenband@cassels.com](mailto:phoogenband@cassels.com)>

**Cc:** Bellissimo, Joseph <[jbellissimo@cassels.com](mailto:jbellissimo@cassels.com)>; Jacobs, Ryan <[rjacobs@cassels.com](mailto:rjacobs@cassels.com)>; Merskey, Alan <[amerskey@cassels.com](mailto:amerskey@cassels.com)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; [Jeff.Larry@paliareroland.com](mailto:Jeff.Larry@paliareroland.com); Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Dino <[dino@stateviewhomes.com](mailto:dino@stateviewhomes.com)>; Carlo <[carlo@stateviewhomes.com](mailto:carlo@stateviewhomes.com)>; Andrew Parley <[aparley@litigate.com](mailto:aparley@litigate.com)>; Matthew Lerner <[mlerner@litigate.com](mailto:mlerner@litigate.com)>

**Subject:** RE: [EXT] KSV Restructuring Inc. re Stateview on the Mark Receivership and Stateview Highview et al Receiverships [IWOV-LEGAL.057984-00009] [NRFC-EDMRS.FID13837538]

Bobby,

A screenshot of the current balance is attached. If you have trouble opening it, try your phone- I could not open it on my computer. You will see it is approximately \$307k, which is less than the \$450k reported last week. We have inquired into the difference and understand that it is likely due to cheques that had been issued prior to May 10 but for which the funds had not yet cleared. In other words, there were no new expenditures or cheques after our letter of May 10. We are informed that the cheques that resulted in the difference include a cheque of \$70k to our firm, a \$30k cheque to a homeowner for the Elm & Co project that had double paid a deposit, and amounts for payroll, utilities and trades. Obviously you can dig into the details once the receivership is in place.

Regards,  
James

**James Renihan**

Partner

Norton Rose Fulbright Canada LLP / S.E.N.C.R.L., s.r.l.  
222 Bay Street, Suite 3000, P.O. Box 53, Toronto ON M5K 1E7 Canada  
T: +1 416.216.1944 | F: +1 416.216.3930  
[james.renihan@nortonrosefulbright.com](mailto:james.renihan@nortonrosefulbright.com)

**NORTON ROSE FULBRIGHT**

**From:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>

**Sent:** May 17, 2023 2:43 PM

**To:** Jennifer Stam <[jennifer.stam@nortonrosefulbright.com](mailto:jennifer.stam@nortonrosefulbright.com)>; Lonergan, Clark <[clonergan@bdo.ca](mailto:clonergan@bdo.ca)>; Hoogenband, Patricia <[phoogenband@cassels.com](mailto:phoogenband@cassels.com)>

**Cc:** Bellissimo, Joseph <[jbellissimo@cassels.com](mailto:jbellissimo@cassels.com)>; Jacobs, Ryan <[rjacobs@cassels.com](mailto:rjacobs@cassels.com)>; Merskey, Alan <[amerskey@cassels.com](mailto:amerskey@cassels.com)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; [Jeff.Larry@paliareroland.com](mailto:Jeff.Larry@paliareroland.com); Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Dino <[dino@stateviewhomes.com](mailto:dino@stateviewhomes.com)>; Carlo <[carlo@stateviewhomes.com](mailto:carlo@stateviewhomes.com)>; James Renihan (he/him) <[james.renihan@nortonrosefulbright.com](mailto:james.renihan@nortonrosefulbright.com)>; Andrew Parley <[aparley@litigate.com](mailto:aparley@litigate.com)>; Matthew Lerner <[mlerner@litigate.com](mailto:mlerner@litigate.com)>

**Subject:** Re: [EXT] RE: KSV Restructuring Inc. re Stateview on the Mark Receivership and Stateview Highview et al Receiverships [IWOV-LEGAL.057984-00009]

Jenny,

Please let me know the status of the items below. I have not yet received the bank balance for Elm. With the receivership application for Elm tomorrow, we'd also like its bank account details today.

Thanks.

Bobby Kofman  
President and Managing Director  
KSV Advisory Inc.  
(o) 416.932.6228  
(c) 647.282.6228  
[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)

---

**From:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>

**Sent:** Tuesday, May 16, 2023 10:18 PM

**To:** Jennifer Stam <[jennifer.stam@nortonrosefulbright.com](mailto:jennifer.stam@nortonrosefulbright.com)>; Lonergan, Clark <[clonergan@bdo.ca](mailto:clonergan@bdo.ca)>;  
Hoogenband, Patricia <[phoogenband@cassels.com](mailto:phoogenband@cassels.com)>

**Cc:** Bellissimo, Joseph <[jbellossimo@cassels.com](mailto:jbellossimo@cassels.com)>; Jacobs, Ryan <[rjacobs@cassels.com](mailto:rjacobs@cassels.com)>; Merskey, Alan <[amerskey@cassels.com](mailto:amerskey@cassels.com)>; Noah Goldstein <[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)>; [Jeff.Larry@paliareroland.com](mailto:Jeff.Larry@paliareroland.com) <[Jeff.Larry@paliareroland.com](mailto:Jeff.Larry@paliareroland.com)>; Kennedy, Robert <[robert.kennedy@dentons.com](mailto:robert.kennedy@dentons.com)>; Dino <[dino@stateviewhomes.com](mailto:dino@stateviewhomes.com)>; Carlo <[carlo@stateviewhomes.com](mailto:carlo@stateviewhomes.com)>; James Renihan (he/him) <[james.renihan@nortonrosefulbright.com](mailto:james.renihan@nortonrosefulbright.com)>; Andrew Parley <[aparley@litigate.com](mailto:aparley@litigate.com)>; Matthew Lerner <[mlerner@litigate.com](mailto:mlerner@litigate.com)>

**Subject:** Re: [EXT] RE: KSV Restructuring Inc. re Stateview on the Mark Receivership and Stateview Highview et al Receiverships [IWOV-LEGAL.057984-00009]

Jenny,

Thanks.

A few things:

- As per your email, we'd appreciate receiving the balance tomorrow morning, particularly with Elm's receivership application returnable Thursday morning.
- There is some urgency to get access to the records related to the receivership companies, including electronic records, and I don't think anyone disputes our right to those. Some of those may be required for the next steps in these proceedings, including a realization process. So it's not accurate that we may not need access to receivership company records right away. We are prepared to enter into a protocol regarding non-receivership company documents and privileged documents.
- Thanks for the information on the payment. We may have additional comments down the road on this topic.

Best,

Bobby Kofman  
President and Managing Director  
KSV Advisory Inc.

(o) 416.932.6228  
(c) 647.282.6228  
[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)

---

## Appendix “D”



Home

## Important Information for purchasers and owners of StateView Homes

Tarion is closely monitoring the situation involving several licensed builders within the StateView Homes group. We understand that purchasers of StateView's pre-construction homes are concerned about recent media reports.

Tarion will update this notice once new relevant information is received.

### **Purchasers of StateView's Pre-Construction Homes**

While several of the builders within the StateView group are in receivership, at this time the appointment of the receiver has not resulted in the termination or fundamental breach of purchase agreements. It remains to be seen in the coming weeks or months whether StateView will be able to proceed with its pre-construction projects, and if it will be able to perform its obligations under the purchase agreements.

If StateView is not able to proceed with its pre-construction projects, and in the future your purchase agreement is terminated or fundamentally breached by StateView, and your deposits are not refunded by StateView through the receivership process, then you will be able to submit a Deposit Protection claim to Tarion. You can learn more about the [deposit protection offered by Tarion here](#).

We encourage you to speak with your real estate lawyer if you have questions about the StateView situation and receivership process. Information about the receivership is [available on the receiver's website](#).

### **Owners of Homes Completed by Stateview**





Tarion will continue to process warranty claim forms, schedule and conduct conciliation inspections, and (if applicable) backstop StateView's warranties.



Sign up for our newsletter

Subscribe



## Contact Us

Mon-Fri 8 am-5 pm (EDT)

1-877-9-TARION(1-877-982-7466)

[About Tarion](#)

[Join our team!](#)

[Contact Form](#)

## Visit Us

5160 Yonge Street, 7th Floor

Toronto, ON M2N 6L9



visit: [newhomeombuds.ca](https://newhomeombuds.ca)

---

## Homeowners

### **Basic Information**

[Homeowners' Homepage](#)

[The New Home Warranty](#)

[Homeowners' Resources Hub](#)

### **Pre-Possession**

[Coverage & claims](#)

[The Pre-Delivery Inspection](#)

### **Post-Possession**

[Coverage & coverage limits](#)

[The claims process](#)

## Condo Corporations

### **Basic Information**

[Condo Corporation Homepage](#)

[Information about common elements](#)

[Condo Corporation Resources Hub](#)

### **Warranty Information**

[Common elements coverage](#)

[Common elements claims process](#)

[The performance audit](#)



**Basic Information**

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- Builders' Homepage
- Licensing & Application process
- Building & Selling
- Builders' Resources Hub

**Pre-Possession**

- Coverage Homes & Condo Units
- Coverage Common Elements
- Pre-Delivery Inspection

**Post-Possession**

- Coverage after you close
- Claims process

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## Appendix “E”



May 3, 2023

**DELIVERED BY E-MAIL**

CBRE Limited  
Land Services Group  
2005 Sheppard Avenue East  
Suite 800  
Toronto, ON M2J 5B4

**Attention: Mike Czestochowski**

Dear Mr. Czestochowski:

**Re: Stateview Group of Companies listed on Appendix "A" (the "Companies")**

Pursuant to an order made by the Ontario Superior Court of Justice (Commercial List) dated May 2, 2023 (the "Receivership Order"), KSV Restructuring Inc. was appointed the receiver and manager (the "Receiver") of the Companies' real property (the "Real Properties") and all the other property, assets and undertaking of the Companies (together with the Real Properties, the "Property").

A copy of the Receivership Order and other materials filed in the receivership proceeding is available on the Receiver's case website at <https://www.ksvadvisory.com/experience/case/stateview-homes> (the "Website").

The Companies are developers of residential real estate projects (the "Projects"). Information concerning the Property, the Projects and these proceedings can be found on the Website.

The Receiver is inviting you to submit a proposal to market the Real Properties listed on Appendix "B". **Proposals must be submitted to the Receiver by 5:00 p.m. (Toronto time) on May 17, 2023.** Details of the process and the content to be included in your proposal are attached as Appendix "C". A confidentiality agreement is attached as Appendix "D".

Pursuant to the Receivership Order, no formal marketing or sale process (a "Sale Process") can be commenced in respect of the Real Properties prior to May 29, 2023. **Accordingly, you are strictly prohibited from soliciting any interest in the Real Properties, or discussing this opportunity with any parties, before an order is issued by the Court approving a Sale Process, unless otherwise agreed by the Receiver in advance.**

Should you have any questions with respect to the above, please contact the undersigned at (416) 932-6031 or mtallat@ksvadvisory.com.

Yours very truly,

**KSV RESTRUCTURING INC.  
SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF  
THE STATEVIEW GROUP OF COMPANIES LISTED ON APPENDIX "A" HERETO**

Per: Murtaza Tallat

**Appendix "A"****List of Companies**

- 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.

**Appendix “B”**

**Real Properties**

<b>Project</b>	<b>Address</b>	<b>PIN</b>
Minu Towns	Donald Cousens Parkway, Markham	PIN 03061-5685 (LT)
Minu Towns	Donald Cousens Parkway, Markham	PIN 03061-5686 (LT)
Nao Towns	5112, 5122, 5248 14th Avenue, Markham	PIN 02962-0856 (LT)
Nao Towns II	7810, 7822, 7834, 7846, McCowan Road, Markham	PIN 02962-0270 (LT)
Nao Towns II	7810, 7822, 7834, 7846, McCowan Road, Markham	PIN 02962-0271 (LT)
Nao Towns II	7810, 7822, 7834, 7846, McCowan Road, Markham	PIN 02962-0272 (LT)
Nao Towns II	7810, 7822, 7834, 7846, McCowan Road, Markham	PIN 02962-0273 (LT)
Nashville	89, 99 Nashville Road, Kleinberg, Ontario	PIN 03323-0578 (LT)
Nashville	89, 99 Nashville Road, Kleinberg, Ontario	PIN 03323-0579 (LT)
Nashville	89, 99 Nashville Road, Kleinberg, Ontario	PIN 03323-0580 (LT)
BEA Towns	189 Summerset Drive, Barrie	PIN 58763-1764 (LT)
High Crown	13151 - 13161 Keele Street, King City	PIN 03372-1040 (LT)

**Request for Proposals for  
REAL ESTATE BROKER SERVICES****Re: Stateview Group of Companies listed on Appendix "A" (the "Companies")**

---

Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on May 2, 2023, KSV Restructuring Inc. was appointed the receiver and manager (the "Receiver") of the Companies' real property (each a "Real Property" and one or more Real Property, the "Real Properties"), and all the other property, assets and undertaking relating to the Real Properties.

**A. Background**

- The Receiver is inviting you to provide real estate broker services to assist the Receiver in conducting a sale process for the Real Properties (the "Sale Process").
- Proposals must be submitted by email to Murtaza Tallat, Director (mtallat@ksvadvisory.com), by 5:00 p.m. (Toronto time) on May 17, 2023.
- Copies of Court materials relating to these proceedings are available on the Receiver's website at: <https://www.ksvadvisory.com/experience/case/stateview-homes>.
- Information related to the Real Properties will be provided in data rooms that have been established for these proceedings (the "Data Rooms"). Realtors can obtain access to the Data Rooms once they sign the confidentiality agreement provided in Appendix "D".
- The terms of the Sale Process are subject to Court approval.
- One or more brokers may be selected to carry out the Sale Process.

**B. Realtor's Role**

- Working with the Receiver, the Realtor's role will include, among other things:
  - developing a marketing process, including timelines for the Sale Process;
  - establishing an estimated value for the Real Properties;
  - preparing marketing materials;
  - advertising the Real Properties at the agent's expense;
  - obtaining and negotiating confidentiality agreements from interested parties;
  - showing the Real Properties to interested parties and working with the Receiver to maintain data rooms to facilitate the Sale Process;
  - qualifying interested parties from a financial perspective, to the extent necessary;
  - assisting interested parties with their diligence;
  - assisting to assess offers submitted and with the negotiation strategy;



- providing Sale Process updates to the Receiver on a weekly basis (or such other frequency as agreed with the Selected Broker), detailing the parties contacted, feedback received, the parties performing due diligence at any point in time and the quality of each of the potential bidders, to the extent possible;
- providing a report to the Receiver at the conclusion of the Sale Process for each Real Property summarizing the Sale Process carried out for that Real Property, including the rationale for selecting the best offer in the sale process for that Real Property; and
- assisting to close one or more transactions.

### C. Proposal Content

- The Proposal must contain the following:
  - Work Plan: proposals shall include a detailed work plan.
  - Value Estimate: proposals shall provide an estimate of the value of each Real Property, together with supporting assumptions, including a discussion of the highest and best use for each Real Property.
  - Firm Background and Staff Experience: proposals shall provide background information concerning their firm, including the experience of their staff who will be working on this assignment (including résumés for the lead agents).
  - Liability Insurance Certificate: a copy of your liability insurance certificate is to be included.
  - Compensation Structure: proposals shall detail the proposed compensation structure for each Real Property, including if the Real Properties are sold individually or *en bloc*.
  - Conflict of Interest Statement: all proposals shall certify the disclosure of any professional or personal financial interests that could be a possible conflict of interest. In addition, any arrangements to derive additional compensation shall also be disclosed and certified.

### D. Proposal Considerations

- The factors on which each Proposal will be considered include the following:
  - the marketing plan;
  - experience selling similar real estate (including the location of the Real Properties);
  - experience acting in Court-supervised situations;
  - compensation structure; and
  - other factors, in the Receiver's sole discretion.

**Note: please limit the proposal to no more than 25 pages, if possible.**

\* \* \*

For more information or questions, please contact Murtaza Tallat at the email address noted above.

**CONFIDENTIALITY AGREEMENT**

KSV Restructuring Inc.  
220 Bay Street, Suite 1300  
Toronto, ON M5J 2W4

Email: mtallat@ksvadvisory.com  
Attention: Murtaza Tallat

To Whom It May Concern:

**Re: Stateview Group of Companies (the "Companies")**

**WHEREAS** this agreement (the "Confidentiality Agreement") is being executed between the Receiver and the Broker (terms as defined below), as entered into as of the date on the last page hereto, for the purpose of providing real estate brokerage services concerning one or more of the Companies' real properties listed on Appendix "B" (the "Real Properties") together with any and all other related property, assets undertaking of the Companies (collectively with the Real Properties, the "Property").

**AND WHEREAS** We/I as undersigned (hereinafter referred to as the "Broker") requests that KSV Restructuring Inc., in its capacity as receiver and manager (the "Receiver") of the Property appointed pursuant to an order of the Ontario Superior Court of Justice made on May 2, 2023, provide the Broker with certain confidential information relating to the Real Property.

**NOW THEREFORE** for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) and in consideration of the Receiver agreeing to provide the Broker with certain or all of the Information (as defined below), the Broker hereby undertakes and agrees as follows:

- a) To treat and maintain confidentially, such information and any other information that the Receiver or any of its advisors furnish to the Broker, whether furnished before or after the date of this Agreement, whether furnished orally or in writing or otherwise recorded or gathered, and regardless of whether specifically identified as "confidential", including any documents or copies (paper, electronic or otherwise) and communications thereof contained (collectively, the "Information").
- b) Not to use any of the Information for any purpose other than for the exclusive purpose of evaluating the possibility of submitting a listing proposal for the Real Properties. The Broker agrees that the Information will not be used in any way detrimental to the Companies, the Property, and/or the Receiver in the performance of its appointment concerning the Property, and that such Information will be kept confidential by the Broker, its directors, officers, employees and representatives (collectively, the "Representatives") and these Representatives shall be informed by the Broker of the confidential nature of such information and shall be directed to treat such information confidentially.
- c) To be held responsible for any breaches of this Confidentiality Agreement by its Representatives, and to advise the Representatives of the confidential nature of the Information, and to provide to those Representatives to which or to whom the Information is provided a copy of this Confidentiality Agreement, and if such Representative is not otherwise bound by restrictions on disclosure and use similar to the obligations hereunder, to have such Representatives agree to be bound by this Confidentiality Agreement.
- d) To transmit, where required, the Information only to those Representatives who need to know the Information for the purposes described herein, who shall be informed by the Broker of the confidential nature of the Information and who agree to be bound by the provisions of this Confidentiality Agreement. On request, the Broker shall promptly notify the Receiver of the identity of each Representative to whom any Information has been delivered or disclosed.

- e) To not supply or disclose any data, communications or documents included in the Information or any Information included therein or any Information hereinafter obtained in the course hereof or with respect hereto to any corporation, company, partnership or individual or any combination of one or more of the foregoing (any of which are hereby defined as a "Person") other than the Broker and its Representatives, unless the prior written consent of the Receiver has been obtained, in advance.
- f) The Broker and its Representatives will not, without the prior written consent of the Receiver, disclose to any Person that this solicitation for proposal is taking place nor disclose of any of the terms, conditions or other facts with respect to any such possible transaction, including the status thereof.
- g) That any time, at the request of the Receiver, the Broker agrees to promptly return or destroy, without any right of compensation or indemnity, all Information without retaining any copies thereof or any notes relating thereto or reproductions or any part thereof in its possession without regards to the form or format. The Broker will certify as to the return or destruction of all Information and related notes and copies of such information and that no Person has a copy of the Information.
- h) That in the event the Broker is required or requested by legal process to disclose any of the Information, the Broker will provide the Receiver with prompt written notice of such requirement or request so that the Receiver may take such actions as it considers appropriate.
- i) That the Broker agrees that the Receiver makes no representations or warranties as to the accuracy or completeness of the Information. The Broker further agrees that neither the Receiver, nor any other author of, or Person providing, Information, shall have any liability to the Broker or any of its Representatives arising from the use of the Information by the Broker or its Representatives.
- j) The Broker represents and warrants that it shall be responsible for any costs associated with its review of the Information. Any consultants, real estate agents/brokers, and/or advisors retained by the Broker shall be required to execute, and to be bound by, this Confidentiality Agreement. The Broker shall retain a copy of such executed Confidentiality Agreement and will provide it to the Receiver immediately following its request.
- k) The Broker and its Representatives acknowledge that the Receiver is acting strictly in its capacity as Receiver and that it shall have no liability for any action, omission, statement, misstatement, representation, or warranty made within the Information. The Broker and its Representatives further acknowledge that the Receiver shall have no liability for any action, omission, statement, misstatement, representation, or warranty made by itself or its employees to the Broker and its Representatives, absent fraud or willful misconduct.
- l) The Broker shall indemnify the Receiver, any of its employees, and its counsel against any loss, cost, damage, expense, legal fees or liability suffered or incurred by any of them as a result of or in connection with any breach by the Broker or any of its Representatives to whom the Broker discloses Information of any term or provision of this Confidentiality Agreement.
- m) The Broker acknowledges and agrees that the execution and delivery of this Confidentiality Agreement and the delivery of the Information does not give rise to any legal obligation of the Receiver, whether in contract, in negligence or other tort, or by way of fiduciary duty or otherwise. Without limiting the generality of the foregoing, the Broker acknowledges and agrees that the Receiver is not and will not be under any obligation, express or implied, to provide or to continue to provide Information, to entertain any offers or proposals for the purchase or any sale, or to complete a sale or other transaction with the Broker, unless and until a legally binding agreement is delivered and executed which expressly provides for such obligations. Furthermore, the Broker acknowledges and agrees that the Receiver has not and will not give any representations or warranties, either express or implied, concerning the accuracy or completeness of, or otherwise relating in any way to, the Information, and that the Receiver shall not have any liability whatsoever to the Broker or any Representatives for any transaction entered into, or not entered into, or any other act, omission or decision made or taken, relying upon or in any way affected by, the Information.

- n) The Broker agrees that monetary damages would not be a sufficient remedy for any breach of this Agreement by it or its employee or agents and that any court having jurisdiction may enter a preliminary and/or permanent restraining order, injunction or order for specific performance in the event of an actual or threatened breach of any of the provisions of this Agreement, in addition to any other remedy available to the Receiver or the Companies. In addition to all remedies available to the Receiver, it is agreed that the Receiver shall be entitled to equitable relief if necessary, including an injunction or specific performance in relation to a breach of this Confidentiality Agreement by the Broker and/or its Representatives.
- o) The Broker hereby agrees to observe all the requirements of any applicable privacy legislation including, without limitation, the *Personal Information Protection and Electronic Documents Act* (Canada) with respect to personal information which may be contained in the Information.
- p) The Broker acknowledges and agrees that it has had an opportunity to obtain independent legal advice as to the terms and conditions of this Confidentiality Agreement and has either received same or expressly waived its right to do so.
- q) This Confidentiality Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns. This Confidentiality Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Each party hereto irrevocably submits to the exclusive jurisdiction of the Ontario Superior Court of Justice (Commercial List) sitting in Toronto, Ontario, with respect to any matter arising hereunder or related hereto.
- r) This Confidentiality Agreement shall enure to the benefit of the Receiver and Mortgagee Representatives and their successors and assigns. Any party may deliver an executed copy of this Confidentiality Agreement by facsimile or email. This Confidentiality Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.
- s) This Confidentiality Agreement shall have a term of two (2) years from the date written below.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2023

("Broker")

\_\_\_\_\_  
Corporate Name (Please Print)

\_\_\_\_\_  
By (Authorized Signing Officer's Signature)

\_\_\_\_\_  
(Officer's Name and Title)

\_\_\_\_\_  
(Broker's  
Address)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Email Address)

## Appendix “F”

	<b>Cushman</b>			<b>Colliers</b>	
	<b>Nao Phase II</b>	<b>Elm</b>		<b>Nashville</b>	<b>BEA</b>
Cushman fee	0.80%	0.80%	Colliers fee	1.85%	0.85%
All in, with co-op broker	1.30%	1.30%	All in, with co-op broker	2.85%	1.35%

	<b>CBRE</b>			<b>JLL</b>	
	<b>Nao Phase I</b>	<b>Minu</b>		<b>High Crown</b>	<b>Industrial</b>
	<b>Proceeds</b>	<b>Commission</b>			
CBRE fee	\$0 - \$9M	3%	JLL fee	1.10%	1.25%
*based on the aggregate	\$9M - \$19M	1.5%			
selling price	\$19M-\$50M	0.95%			
	+\$50M	0.65%			
Co-op broker fee	0.50%	0.50%	All in, with co-op broker	1.60%	1.75%

\*CBRE's commission is structured based on aggregate proceeds on both sites. Accordingly, for illustrative purposes only, if the projects were sold for \$100 million, the commission would be \$1,039,500 (calculated as 3% on first \$9 million, 1.5% on next ten million, 0.95% on next \$31 million and 0.65% on last \$50 million).

\*\*The realtors will receive a work fee of \$100,000 per real property in the event of a refinancing or \$150,000 per real property in the event the real property is acquired by a mortgagee through a credit bid. One work fee would be paid for all industrial properties in the event of a refinancing or credit bid.

**This is Exhibit “L” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



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

**JONATHAN SILVER**



# 274

## INFORMATION FOR BUYERS OF PRE-CONSTRUCTION CONDOMINIUM HOMES

Property 6

### 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 unit<sup>1</sup>. 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.<sup>2</sup>**

#### 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 01/22/2026 (Month/Day/Year). This date may be further extended. Please refer to the Statement of Critical Dates in the 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 Vendor<sup>3</sup>

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

- a. By N/A (Month/Day/Year), a set level of sales for the project has not been achieved.
- b. By 06/03/2024 (Month/Day/Year), certain zoning and/or development approvals have not been obtained.
- c. By 06/03/2024 (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 Condominium Addendum.

<sup>1</sup> 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*).

<sup>2</sup> See *Condominium Act, 1998, s.73*.

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





## INFORMATION FOR BUYERS OF PRE-CONSTRUCTION CONDOMINIUM HOMES

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<sup>4</sup>. 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).

### 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 08/03/2024 (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.

<sup>4</sup> 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.



# INFORMATION FOR BUYERS OF PRE-CONSTRUCTION CONDOMINIUM HOMES

## 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 document<sup>5</sup> together with the Condominium Addendum<sup>6</sup>, forms part of your Purchase Agreement. This document, the 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 Condominium Addendum shall prevail followed by this document. Terms not defined in this document have the meaning set out in the Condominium Addendum.

## 9. 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 October 13, 2022 | 9:57:43 AM EDT  
(Month/Day/Year).

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

DocuSigned by: [Redacted]  
DocuSigned by: [Redacted]  
Purchaser Signature CAF05E7969E847A... 0D963B440A9143A...

[Redacted]  
Purchaser Name

DocuSigned by: *Carlo Taurasi*  
Vendor Signature 30E01E733F9B420...

STATEVIEW HOMES (ELM&CO) INC.  
Vendor Name

5 HCRA'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.*

POTL/TOWNHOUSE LOT NO. 6

**STATEVIEW HOMES (ELM&CO) INC.**

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

1. **PURCHASER(S):** [REDACTED]

(singularly or collectively referred to as the "Purchaser"), hereby agree(s) with **STATEVIEW HOMES (ELM&CO) INC.** (the "Vendor") to purchase the dwelling known as **NO. 6**, (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

**One Million Two Hundred Fifty Nine Thousand Nine Hundred Ninety** DOLLARS  
(\$ 1,259,990.00) 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:

- a) the sum of **THIRTY THOUSAND DOLLARS (\$30,000.00)** as a deposit to be paid upon the execution of this agreement;
- b) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the first (1<sup>st</sup>) month after the date of execution of this Agreement by the Purchaser;
- c) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the second (2<sup>nd</sup>) month after the date of execution of this Agreement by the Purchaser;
- d) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the third (3<sup>rd</sup>) month after the date of execution of this Agreement by the Purchaser;
- e) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the fourth (4<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- f) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the fifth (5<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- g) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the sixth (6<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- h) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the seventh (7<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- i) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the eighth (8<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- j) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the ninth (9<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser; and
- k) 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 TARIION 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 Taron 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 & Finishes, "B" Adjustments to Purchase Price or Balance Due on Closing, "C" Terms of Occupancy, "D" Floor Plan, "G" Assignment, "S" Site Plan, Taron Warranty Corporation's "Warranty Information for New Homes in Parcel of Tied Land" (the "Warranty Information") and Acknowledgement of Receipt of Disclosure Documents 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.

DS  
CT  
DS  
[REDACTED]

- 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 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 \_\_\_\_\_, 2022.

WITNESS: \_\_\_\_\_ PURCHASER: \_\_\_\_\_  
DocuSigned by: [Redacted] CAFD5E7969F847A...  
 Date of Birth: \_\_\_\_\_

WITNESS: \_\_\_\_\_ PURCHASER: \_\_\_\_\_  
DocuSigned by: [Redacted] 0D963B440A9143A...  
 Date of Birth: \_\_\_\_\_

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

October 13, 2022 | 9:57:43 AM EDT

ACCEPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**STATEVIEW HOMES (ELM&CO) INC.**


Per: \_\_\_\_\_  
DocuSigned by: Carlo Taurasi 30E01E733F9B420...  
 Authorized Signing Officer  
 I have authority to bind the Corporation.

**Vendor's Solicitor:**  
 Schneider Ruggiero Spencer Milburn LLP  
 Attention: Bruce Milburn  
 302 – 610 Applewood Crescent  
 Concord, Ontario, L4K 0E3  
 Telephone: 416-363-2211 ext. 208  
 Telefax: 289-695-0045  
 Email: [sales@srlawpractice.com](mailto:sales@srlawpractice.com)

**DEFINITIONS**

6. The following terms shall have the following meaning for the purposes of this agreement:

- a) **"Act"** shall mean the Condominium Act, 1998, S.O. 1998, C. 19, 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) **"HCRA"** means the Home Construction Regulatory Authority as designated pursuant to section 2 (1) of the NHCLA;
- l) **"Lands"** or **"Real Property"** shall mean those lands and premises comprised of: In the Regional Municipality of York, Town of Whitchurch-Stouffville, being Part of PART LOT 5, CONCESSION 10 WHITCHURCH, PART 1, PLAN 65R37148; TOWN OF WHITCHURCH-STOUFFVILLE, comprising all of PIN 03707-0188 (LT);
- m) **"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, c. P.13, 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;
- n) **"NHCLA"** means the New Home Construction Licensing Act, 2017, S.O. 2017, c. 33, Sched. 1, as amended, and the regulations thereunder;
- o) **"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;
- p) **"Occupancy Fee"** or **"Occupancy Fees"** shall mean the sum or sums of money payable as set out in the Occupancy Licence;
- q) **"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 (10%) of the Purchase Price. In the event that the ONHWP and/or the Addendum prohibits such additional deposit

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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;

- r) **"ONHWPA"** shall mean the Ontario New Home Warranties Plan Act, R.S.O. 1990, c. O.31, as amended and all its regulations and bulletins;
- s) **"POTL"** shall mean the freehold parcel-of-tied land as described on Page 4 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;
- t) **"Property"** shall mean the Dwelling and POTL collectively;
- u) **"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;
- v) **"Purchaser"** means the purchaser(s) as defined in paragraph 1 of page 4 of this Agreement to which this schedule is attached;
- w) **"Purchase Price"** means the purchase price of the Property as defined on page 4 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;
- x) **"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;
- y) **"Residential Dwelling"** or **"Dwelling"** shall mean the home to be constructed upon the POTL by the Vendor, in accordance with this agreement;
- z) **"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;
- aa) **"service provider"** or **"Service Provider"** shall mean any party providing any service or utility to the Property and/or Subdivision;
- bb) **"Developer"** means the registered owner of the Lands (including the Vendor if applicable) as of the date that the Condominium is registered;
- cc) **"Tarion"** or **"Warranty Corporation"** shall mean Tarion Warranty Corporation;
- dd) **"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;
- ee) **"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;

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- (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 assessed 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;
- (d) The Vendor represents and warrants that it is registered as a builder under the ONHWP, as hereinbefore defined, and that the Property is or will be enrolled under the ONHWP. 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) The Vendor represents and warrants that it is a licenced builder under the NHCLA, as hereinbefore defined. The Purchaser covenants and agrees to reimburse the Vendor on closing for the HCRA Regulatory Oversight fee paid by the Vendor for the Property under the NHCLA (together with any provincial or federal taxes eligible with respect thereto);
- (f) One Thousand Dollars (\$1,000.00) administrative fee, plus Applicable Taxes, shall be charged to the Purchaser for any cheque delivered to the Vendor plus a Five Hundred Dollar (\$500.00) fee, plus Applicable Taxes, charged by the Vendor's lawyer for any payment made by the Purchaser 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 fees shall form a credit in favour of the Vendor and Vendor's solicitor in the Statement of Adjustments for each Returned Cheque and shall be paid on the Closing Date;
- (g) 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, 1997, S.O. 1997, c. 27, as amended, the Education Act, R.S.O. 1990, c. E.2, as amended, 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, 1997, S.O. 1997, c. 27, as amended, the Education Act, R.S.O. 1990, c. E.2, as amended, 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;
- (h) 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 (on a full indemnity basis) 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 three hundred dollars (\$300.00) plus Applicable Taxes;
- (i) The Purchaser shall provide a refundable security deposit in the amount of two thousand 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

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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;

- (j) 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 six hundred dollars (\$600.00), plus Applicable Taxes, as an adjustment on Closing;
  - (k) 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;
  - (l) 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;
  - (m) 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;
  - (n) 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;
  - (o) 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; and
  - (p) 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.

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**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 thirteen percent (13%) 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 Canada Excise Tax Act, R.S.C. 1985, c. E-15, as amended or the Canada Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), as amended, 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, R.S.C. 1985, c. E-15, as amended and the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.),


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- as amended, 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 (on a full indemnity basis) 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 twenty percent (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:

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- 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

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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 twenty (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 willful 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, 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

19. 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 carried out 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

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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 ONHWPA 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

20. 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

21. 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

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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.

22. 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

23. 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

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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

24. 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

25. 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 twenty-four (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.

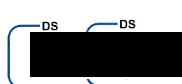
#### LANDSCAPING, RETAINING WALLS, FENCES, BERMS AND STRUCTURES OR FEATURES

26. 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

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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

27. 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 HCRA 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 HCRA or obtaining same from their website at [www.Tarion.com](http://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 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. In the event the HCRA and/or Tarion determines, directs, counsels, suggests, guides, instructs, opines or in any other way advises or decides during an Unavoidable Delay (as defined in the Addendum) event or any other public health emergency or similar type event that it is not necessary, desirable or a requirement for a PDI to occur prior to closing in the presence of both the Purchaser and the Vendor, then the Vendor shall not be required to set a date and time to meet the Purchaser or the Purchaser's representative prior to the Closing Date to conduct the PDI, the Vendor shall be permitted to complete the PDI on or before the Closing Date without the presence of the Purchaser or the Purchaser's representative and the Vendor shall be permitted to complete the PDI on behalf of the Purchaser as the Purchaser's lawful attorney in the Purchaser's name, place and stead in order to complete the PDI Form on the Purchaser's behalf and the Purchaser shall be bound as if the Purchaser or the Purchaser's designate had executed the PDI Form. For clarity, reference in this subparagraph to "PDI Form" is used interchangeably with "PDI Forms".
- 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 sub-trades 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 sub-trade 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

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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.

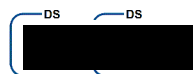
- c) The Vendor shall complete the exterior landscaping or exterior building elements of the Property and Dwelling as soon as reasonably practicable, but the failure of the Vendor to complete the exterior landscaping or building elements, on or before the Closing Date or the failure of the Developer 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"), 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 TARIION 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

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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 and/or HCRA 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 matters 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/or HCRA and the Vendor agrees to complete and/or rectify same within a reasonable time after Closing (or some other date as prescribed by Tarion and/or HCRA), 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 Tarion 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, rear 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

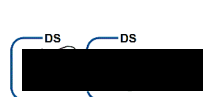


agrees to accept the Dwelling without such door(s) and the Purchaser shall not be entitled to any compensation or abatement of the Purchase Price.

- 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.
- 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 (7) 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 (7) 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 the 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) 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.
- r) 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

28. 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,



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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

29. 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) Any Extras and upgrades selected by the builder as a result of the purchaser's failure to select shall become due and payable on closing. Amounts payable are at the builder's sole discretion.
- d) The Purchaser acknowledges and agrees that insofar as the wood finishes, marble, granite, 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.
- e) 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.
- f) 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.
- g) 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.
- h) Notwithstanding anything herein written, if at the time that this Agreement is executed, the Property constructed on the Real Property has already been substantially completed, the Purchaser shall purchase the Property in an "as built" condition rather than in accordance with any other representations herein contained.

#### NO ACCESS UNTIL CLOSING

30. 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

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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

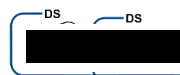
31. The Purchaser agrees that the Dwelling may be occupied when the requirements of the Municipality have been complied with and the Vendor has complied with the terms of the Addendum, notwithstanding that there remains exterior or other work to be completed as hereinbefore and hereinafter set out, including 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

32. 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 of the Planning Act 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 ten (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 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 or 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, c. L.5, 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.
33. 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 fifteen (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

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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

34. 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 and any amendments thereto, including without limitation Section 50 thereof, on or before the Occupancy Date.

#### MANNER OF PURCHASER'S TITLE

35. The Purchaser agrees to advise the Vendor or its solicitors within fifteen (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

36. 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

37. 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

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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

38. 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

39. 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, c. P.20, as amended, and/or the Substitute Decisions Act, 1992, S.O. 1992, c. 30, 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

40. 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

41. 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

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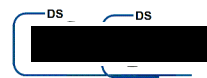


Date on an internet web site on the world wide web, and providing notice to the Purchaser and/or his/her solicitor of the method of accessing such documents on such internet site and the internet address of such web site, or by electronic mail or telefacsimile and the Vendor shall be entitled to charge 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 Ontario Electronic Commerce Act, 2000, S.O. 2000, c. 17, as amended, 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

42. 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 seven (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, 2000, S.O. 2000, c. 17, as amended;
- 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



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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

43. 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

44. 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

45. 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 or denied 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, c. P.20, as amended, and/or the Substitute Decisions Act, 1992, S.O. 1992, c. 30, 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

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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

46. 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 eighteen percent (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 fees (on a full indemnity basis) 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, c. P.20, as amended*, and/or the *Substitute Decisions Act, 1992, S.O. 1992, c. 30, 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.
47. 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.
48. In the event this Agreement is terminated through no fault of the Purchaser, all deposit monies paid by the Purchaser towards the Purchase Price, together with any interest required by law to be paid, shall be returned to the Purchaser; provided however, that the Vendor shall not be obligated to return any monies paid by the Purchaser as an Occupancy Fee or for optional upgrades, changes or extras ordered by the Purchaser, save and except as provided

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for in the ONHWPA, its regulations or the Addendum to the contrary. In addition, the Purchaser acknowledges that the Vendor shall not be liable for any damages, losses, liabilities or costs whatsoever incurred by the Purchaser resulting from the termination of this Agreement including, without limiting the generality of the foregoing, relocation costs, professional fees and disbursements, opportunity costs, loss of bargain, loss of future profit, or any other damages or costs incurred by the Purchaser, directly or indirectly. The Purchaser acknowledges and agrees that this provision may be pleaded by the Vendor as a complete defence to any claim which may be made by the Purchaser against the Vendor. It is understood and agreed by the parties that if construction of the Unit is not completed in accordance with the provisions of this Agreement on or before the Occupancy Date, or any extension thereof, the Vendor's responsibility shall only be limited to those delayed compensation costs, damages and expenses (if any) that the Purchaser may claim pursuant to the ONHWPA and/or the Addendum.

#### LIMITATION

49. 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

50. 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.

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**CONSTRUCTION LIENS**

51. 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 Act, R.S.O. 1990, c. C.30, 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 Act, R.S.O. 1990, c. C.30, 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**

52. 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**

53. 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**

54. 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**

55. 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, c. 5, 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 (I.e. with respect to Land Transfer Tax), and Canada Revenue Agency (I.e. 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


56. 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 five (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, c. F.3, as amended*, all within five (5) 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

57. The Purchaser acknowledges that the Vendor or the Vendor's 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

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

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- 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

59. 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

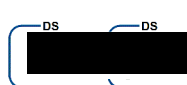
60. This Agreement of Purchase and Sale shall be governed by the laws of the Province of Ontario. If more than one individual, partnership and/or company comprises the Purchaser, then all of the covenants, obligations and agreements of the Purchaser herein shall be deemed and construed to be the joint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

#### SEVERABILITY

61. 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

62. 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

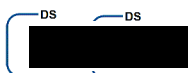


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any representation, warranty, collateral agreement or condition affecting this Agreement or the Property, or supported thereby, other than those specifically set out in this Agreement or in any of the schedules hereto, and specifically absolves the 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**

- 63. 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.





## Features & Finishes

## Schedule 'A'

### ECO FRIENDLY FEATURES FROM OUR HARMONY PACKAGE

- ④ 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
- ④ All bathrooms (with or without windows) have exhaust fan (EnergyStar® qualified) vented to the outside
- ④ Forced air natural gas condensing furnace, 96% ECM efficiency, with an ECM motor, power vented to the outside
- ④ Heat Recovery Ventilation Unit (H.R.V.) simplified system
- ④ EnergyStar® qualified condensing domestic hot water tank (rental unit)
- ④ All main trunk ducts, including basements for supply and return and panned joists to be taped, for added heating and cooling efficiency
- ④ Centrally located electronic EnergyStar® qualified thermostat on main floor
- ④ LED light bulbs where applicable to help conserve energy
- ④ Extensive caulking for improved energy conservation and draft prevention
- ④ The use of recycled material throughout the building process

### REFINED EXTERIOR FEATURES & STRUCTURAL COMPONENTS

- Durable, maintenance free, pre-finished aluminum soffits, fascia, eavestrough and downspouts, all colour coordinated
- Prominent insulated entry door with door hardware package including grip-set and deadbolt, with glass insert to front entry door features (as per plan/elevations/ options) with complementing door sills 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)
- One (1) exterior hose bib provided in garage
- Sliding patio doors leading to rear (as per plan/elevations/option.)
- Pre-finished insulated roll-up garage door with decorative glazing and hardware

### CHEF INSPIRED 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
- Post formed kitchen countertops with your choice of colour from Vendor's standard samples
- Stainless steel finish, undermount sink in kitchen with faucet
- 6" Kitchen stove vent to be vented to outside

### PAMPERING BATHROOM FINISHES

- Custom quality designed primary ensuite/bathroom cabinets with choice of styles from Vendor's standard samples (as per plan/options)
- Post formed countertop for primary ensuite/bathrooms with a clean-cut finish where the countertop meets the wall
- Single lever faucet(s) in all bathrooms
- White pedestal sink for all powder rooms
- ④ High efficiency water saving white toilets in all bathrooms
- Deep acrylic soaker tubs (as per plan/options)
- Ensuite retreats with glass showers
- ④ All bathroom tub & shower enclosures to receive "mold resistant drywall"

### LIGHTING & ELECTRICAL FEATURES

- 100 amp electrical services with breakers (as per OBC Building Code)
- Weatherproof exterior electrical outlets, at each accessible exterior door
- 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

### EXQUISITE FLOOR COVERINGS

- Tile flooring – locations as per applicable model layouts
- Laminate flooring – locations as per applicable model layouts
- 3 storey product features broadloom flooring with under pad in 3<sup>rd</sup> level hallway and all bedrooms from Vendor's standard samples

### LAUNDRY ROOM ACCENTS

- All upper floor laundry closets/rooms to include a floor drain and tiled baseboards (as per plan/options)

### CONVENIENT ROUGH-INS FOR FUTURE CONNECTIVITY

- Three (3) internet rough-in (CAD-5 Standard). Location to be determined by purchaser
- Rough-in Central vacuum system to all finished floors with pipes dropped to garage as determined by StateView Homes
- Alarm Rough-in only
- Municipal address plaques provided
- Professionally home cleaning service prior to occupancy
- Duct cleaning at time of occupancy

### ENTICING INTERIOR LIVING SPACES

- Three storey product to have nine (9') ceilings heights on Ground & second floors and eight (8') ceilings heights on third floor
- All heights are approximate and subject 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
- Sunken 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 laundry room, powder room and all bathrooms, with sprayed stipple ceilings with 4" smooth border in all other areas
- White paint on all walls and white semi-gloss paint on doors and trim
- Elegant oak veneer stringers with carpeted stairs, landings and risers and 1 5/16" oak square spindles to finished areas with oak handrails (as per plan/options. Excludes basement stairs)
- Baseboards throughout with doorstop to hard surface flooring areas
- Casing on all doors and windows throughout finished areas
- Quality finished interior knobs on all interior doors with complementing hinges
- 6'8" doors, pocket doors, and French doors (as per plan/options)
- Thoughtful storage considerations with shelving installed (as per plan/options)

### COMFORT SMART HOME AUTOMATION

- ④ One (1) smart central Automation Hub with touchscreen located at the front entrance of the home
- ④ One (1) smart door lock on the inside garage door leading to house (grade/options permitting)
- ④ One (1) smart lighting control
- ④ One (1) smart thermostat control
- ④ One (1) smart water leak sensor
- ④ One (1) pre-construction homeowner system design consultation
- ④ One (1) customer system training session
- ④ StateView Homes shall provide a personally scheduled appointment with our qualified Technical Contractor to explain and co-ordinate any additional technology requirements requested

### HASSLE FREE CUSTOM UPGRADES

- 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)

### THE STATEVIEW HOMES GUARANTEE

- Backed by "TARION" (Ontario New Home Warranty Program). StateView Homes, is a registered member of TARION and will 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 layouts.
- All features and finishes where Purchasers 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 final siting 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 Purchasers are given the option to upgrade the stain of the interior stairs and railings, the purchaser is aware that the stain will complement the Harwood; "It will not match the hardwood".
- Purchasers may be required to reselect colours and/or materials from the Vendor's samples as a result of unavailability or discontinuation.
- Due to grade, door from garage to house may not be available.
- Ceilings and walls may be modified to accommodate mechanical system.
- Purchaser acknowledges being advised that windows may 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 reserves the right to alter floorplans, exteriors, specifications and prices without notice. All renderings, floor plans and maps in brochures and sales displays are artists' concepts and are not necessarily to scale and dimensions/ square footages 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.
- If minor variations to 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 to the Purchase Price (5-10% total area allowance)

September 23, 2022



### 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.



**SCHEDULE B**  
**Adjustments to Purchase Price or Balance Due on Closing**

**PART I Stipulated Amounts/Adjustments**

1. Refer to section 7(f) - \$1,000.00 fee to Vendor and \$500.00 fee to Vendor's lawyer for any NSF cheques issued by Purchaser
2. Refer to section 7(h) - \$300.00 charge for discharge of Vendor's Lien
3. Refer to section 7(i) – a refundable deposit in the amount of \$2,500.00 to secure Purchaser's obligations with respect to lot grading and related matters
4. Refer to section 7(j) - \$600.00 fee for cost of a foundation survey
5. Refer to section 7(l) – the cost of \$250.00 per month post-closing for each month the Purchaser fails to enter into any utility contract with the supplier and the Vendor is required to maintain such contract

DS DS  
[Redacted]

DS  
[Signature]

**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.

1. Refer to section 7(a) – charges related to gas, water, electricity connections and meters and security deposits for related accounts
2. Refer to section 7(b) – costs for any adjustments related to fuel, water, taxes, local improvement charges to be paid for by Purchaser on closing
3. Refer to section 7(c) – Law Society of Ontario fee
4. Refer to section 7(d) – the Ontario New Home Warranties Plan Act enrollment fee
5. Refer to section 7(e) – the NHCLA regulatory fee
6. Refer to section 7(g) – the cost of any increase in levies, development charges and related charges after the date of this Agreement
7. Refer to section 7(k) – costs incurred by Vendor related to blue box recycling program to be reimbursed by Purchaser
8. Refer to section 7(m), (n) and (o) – Purchaser is required to enter into contracts with electricity, water and gas suppliers as their own costs
9. Refer to section 7(p) - reimburse the vendor for any costs related to subdivision esthetic enhancements imposed by approval authorities
10. Refer to section 8 – any taxes applicable to any adjustments
11. Refer to sections 9 – 14 – H.S.T. assignment and related costs
12. Refer to section 15 – any post-closing fees or payments related to interim occupancies
13. Refer to section 28 – cost of rental equipment, if any
14. Refer to section 46 – interest at a rate of 18% per annum on any default amounts



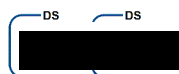
**SCHEDULE "C"**  
**TO THE AGREEMENT OF PURCHASE AND SALE OF STATEVIEW HOMES (ELM&CO) INC.**  
**TERMS OF OCCUPANCY LICENCE**

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 the schedule in its sole 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 and/or Region 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 or delayed. The Purchaser shall be responsible for all utility, telephone expenses, internet, 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 or delayed. 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 H.S.T. 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 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.

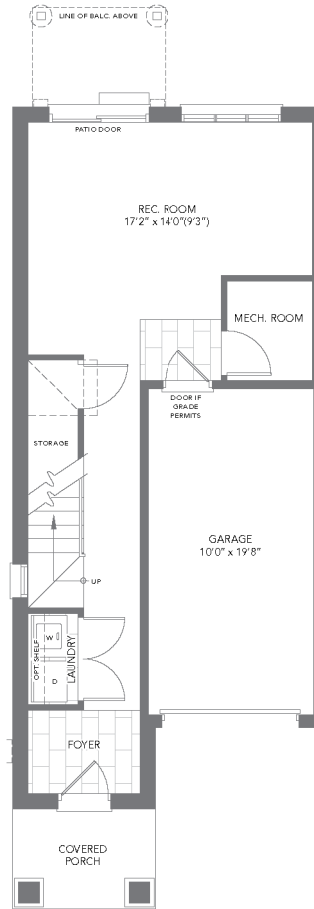


# WILLOW END

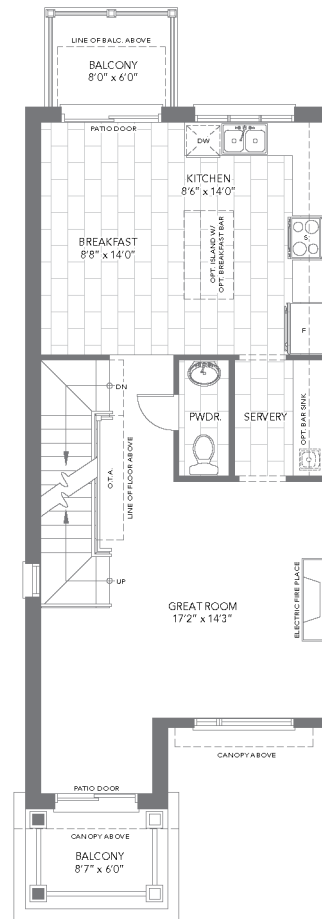
## 3-Storey Traditional Towns

2,227 SQ. FT.

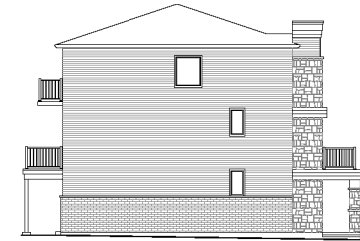
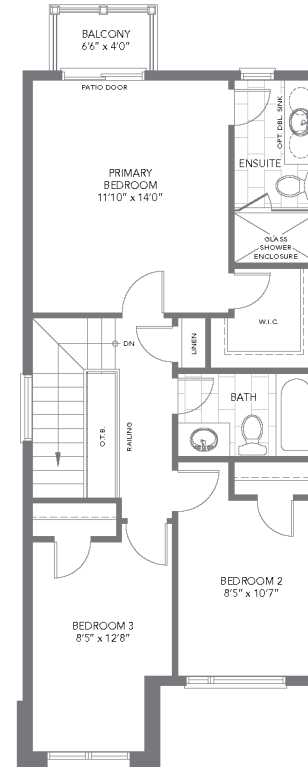
First Floor



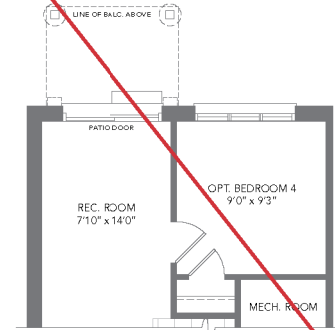
Second Floor



Third Floor



Opt. First Floor



OPTIONAL FIRST FLOOR - \$10,000

DS  
CT

DS DS

DS  
CT

LOTS: 1, 6, 7




STATE VIEW  
HOMES


The floor plans, elevations, dimensions, specifications and architectural detailing shown are pre-construction plans only and may be changed or revised without notice including as may be necessitated by architectural controls and construction process. All dimensions are approximate. Actual usable floor space may vary from the stated area. House may be reversed Steps may vary at any exterior entrance. Illustrations are artist's concept only. Exterior railings to be installed only as required by grade not withstanding any illustrations or plans. E.&O.E. Sept 23, 2022.


**SCHEDULE "G"**  
**TO THE PURCHASE AGREEMENT OF STATEVIEW HOMES (ELM&CO) INC.**  
**ASSIGNMENT SCHEDULE**

1. The Vendor agrees that notwithstanding the terms and conditions of the agreement of purchase and sale (the "**Purchase Agreement**") to which this schedule is attached, the Purchaser shall be entitled to assign this agreement of purchase and sale (the "**Assignment**"), at the Vendor's sole and unfettered discretion, by contacting the Vendor at "assignments@stateviewhomes.com", provided the Purchaser pays the Vendor's fee in this regard in the amount of \$0.00, together with the Vendor's solicitor's legal fees of \$1,050.00 plus H.S.T., on the following terms and conditions:
  - a. the Purchaser shall only be entitled to exercise this right of Assignment once the Vendor has entered into final and binding agreements for not less than eighty-five percent (85%) of all of the residential dwellings in the Project and not after ninety (90) days prior to the Closing Date;
  - b. all deposits required to be paid pursuant to this Purchase Agreement as of the date of the Assignment have been paid in full, and this right of Assignment may only be exercised once by the original Purchaser, and such Purchaser shall remain liable under the Purchase Agreement until the assignee has completed the Purchase Agreement;
  - c. the Purchaser shall only be entitled to exercise this right of Assignment, provided that the Purchaser is not in default and has never committed any default under the Purchase Agreement;
  - d. the Purchaser shall not be entitled to list the Property for sale on the Multiple Listing Service, social media sites, electronic billboards or internet sales or advertising sites of any nature (i.e. Facebook Marketplace, Craigslist, Ebay, Kijiji, etc.), any brokerage website or personal website, any newspaper, flyer and/or media platform of any nature. Any breach of this covenant shall automatically result in the loss of the right of Assignment as provided for herein and shall constitute a default under the Purchase Agreement that is incapable being rectified by the Purchaser;
  - e. the party to whom this Purchase Agreement is being assigned (the "**Assignee**") provides evidence satisfactory to the Vendor (as determined by the Vendor in its sole and unfettered discretion) that the Assignee has the financial ability to complete the transaction contemplated by the Purchase Agreement; and,
  - f. the Purchaser and the Assignee enter into the Vendor's form of Assignment agreement (the "**Assignment Agreement**"), without amendment, which agreement shall, *inter alia*, provide:
    - i. all deposits theretofore paid by the Purchaser (the "**Deposits**") shall be assigned to the Assignee;
    - ii. the Purchaser releases all right and interest in the Property and the Deposits;
    - iii. the Assignee agrees that the monies and consideration paid to the Purchaser shall be included in the calculation of any Land Transfer Taxes eligible in respect of the Property;
    - iv. The Assignee shall acknowledge that the Canada Revenue Agency may determine that the Assignee may not qualify for the Rebate or Rebates, as applicable, due to the Assignment, and in such case, the Assignee shall pay the Vendor on closing, the amount equal to that portion of the Rebate or Rebates to which the Assignee may no longer qualify for, and as a result the Vendor shall be charging the Assignee of the Rebate amount, in addition to the Purchase Price, on the Unit Transfer Date;
    - v. the Vendor shall charge H.S.T. on the amount of any Assignment fee and/or increase in the Purchase Price as between the Assignee and the Assignor as well as the loss of any portion of the Rebate arising as a result of the Assignment;
    - vi. the Purchaser warrants that he or she has delivered, and the Assignee warrants that he or she has received one fully executed copy of the Purchase Agreement and all of the disclosure documents required to be delivered to a Purchaser pursuant to the Act;
    - vii. the Assignee and Assignor covenant and agree that, in consideration of the Vendor consenting to the Assignment, each waives any and all right to delayed occupancy compensation pursuant to the ONHWPA; and
    - viii. notwithstanding the Assignment of the Purchase Agreement, the Purchaser and/or Assignor shall not be relieved of its obligations under the Purchase Agreement, should the Assignee fail to complete the purchase of the Property.
  
2. In the alternative, the Vendor, in its sole discretion, may require that the Assignee under the Assignment Agreement enter into a new agreement, and the Assignment Agreement may take the form of a new purchase agreement with the replacement purchaser together with a conditional release of the original purchaser with the Vendor being entitled to the retain from the final Purchase Price payable by the new Purchaser the Vendor's fees as aforesaid, Assignment H.S.T. and an amount equal to any decrease in the H.S.T. Rebate arising as a result of the Purchase Price of the replacement purchaser increasing and thereby decreasing the available H.S.T. rebate before paying the original purchaser the difference between the Purchase Price under this agreement and the purchase price payable by the replacement purchaser.
  
3. Without limiting the foregoing, any such consent provided by the Vendor herein shall not extend to nor allow for or in any way be deemed to include any right of the Purchaser to conduct an 'open house' or similar showing of the Property or list for sale or advertise for sale the Property on any multiple listing service or similar type service, all of which are strictly prohibited. The Purchaser acknowledges and agrees that once a breach of the covenants contained herein occurs, such breach is or shall be incapable of rectification, and accordingly, the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement and the Occupancy Agreement, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default shall apply.

All other terms and conditions of the Purchase Agreement shall remain in full force and effect unless specifically amended herein.

  
 Purchaser's Initials

  
 Purchaser's Initials



Old Elm GO Station

Bethesda Side Road



### Legend

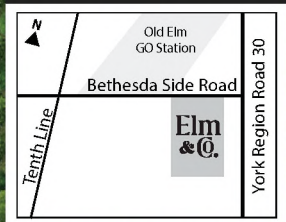
- Traditional Townhomes
- Stacked Townhomes
- Rear Lane Townhomes
- Back-to-Back Townhomes

# STATE VIEW

## HOMES

*Live Inspired*

### Stouffville



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(Tentative Occupancy Date - POTL/CEC)

Property 6

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 (ELM&CO) INC.

Full Name(s)

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 22nd day of January, 2026.

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 22nd day of May, 2026.

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 21st day of September, 2026.

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 25th day of May, 2027.

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 24th day of October, 2025.

(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 20th day of February, 2026.

(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 24th day of June, 2027.

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 this 13, 2022 | 9:57:43 AM EDT day of October, 20.

VENDOR: [Redacted]

PURCHASER: [Redacted]

DocuSigned by: Carlo Taurasi

DocuSigned by: [Redacted]

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(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 (ELM&CO) INC.

Full Name(s) B61469	16 - 410 Chrislea Road		
HCRA Licence Number (905) 851-1849	Address Woodbridge	Ontario	L4L 8B5
Phone (905) 851-1841	City daniel@stateviewhomes.com	Province	Postal Code
Fax	Email*		

**PURCHASER** [REDACTED]

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

**PROPERTY DESCRIPTION**

12942 York Durham Line

Municipal Address Whitchurch-Stouffville	ON	
City Part of Part Lot 5, Concession 10, Whitchurch, Part 1, Town of Whitchurch-Stouffville	Province	Postal Code
Short Legal Description		

Number of Homes in the Freehold Project 206 (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: Relevant Municipal and Regional Confirmations

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 3 day of August, 2024.

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.

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(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**

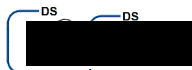
- (a) The Firm Occupancy Date, once set or deemed to be set in accordance with section 1, can be changed only:
  - (i) by the Vendor setting a Delayed Occupancy Date in accordance with section 3;
  - (ii) by the mutual written agreement of the Vendor and Purchaser in accordance with section 4; or
  - (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.

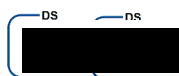
**5. Extending Dates – Due to Unavoidable Delay**

- (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:

Site Plan Approval and/or development approvals have been obtained.

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

The date by which Condition #1 is to be satisfied is the 3 day of June, 2024.**Condition #2 (if applicable)**

Description of the Early Termination Condition:

Satisfactory financing for the project has been obtained.

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

The date by which Condition #2 is to be satisfied is the 3 day of June, 2024.

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.

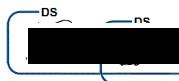
**9. Occupancy**

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

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

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.

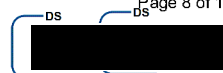
**"Unavoidable Delay Period"** means the number of days between the Purchaser's receipt of written notice of the commencement of the Unavoidable Delay, as required by paragraph 5(b), and the date on which the Unavoidable Delay concludes.

#### 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.





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

- (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.

**For more information please visit [www.tarion.com](http://www.tarion.com)**

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

**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.

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

**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.]**

1. Refer to section 7 (f) - \$1,000.00 fee to Vendor and \$500.00 fee to Vendor’s lawyer for any NSF cheques issued by Purchaser
2. Refer to section 7 (h) - \$300.00 charge for discharge of Vendor’s Lien
3. Refer to section 7 (i) – a refundable deposit in the amount of \$2,500.00 to secure Purchaser’s obligations with respect to lot grading and related matters
4. Refer to section 7 (j) - \$600.00 fee for cost of a foundation survey
5. Refer to section 7 (l) – the cost of \$250.00 per month post-closing for each month the Purchaser fails to enter into any utility contract with the supplier and the Vendor is required to maintain such contract



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

**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.]**

1. Refer to section 7(a) – charges related to gas, water, electricity connections and meters and security deposits for related accounts
2. Refer to section 7(b) – costs for any adjustments related to fuel, water, taxes, local improvement charges to be paid for by Purchaser on closing
3. Refer to section 7(c) – Law Society of Ontario fee
4. Refer to section 7(d) – the Ontario New Home Warranties Plan Act enrollment fee
5. Refer to section 7(e) – the NHCLA regulatory fee
6. Refer to section 7(g) – the cost of any increase in levies, development charges and related charges after the date of this Agreement
7. Refer to section 7(k) – costs incurred by Vendor related to blue box recycling program to be reimbursed by Purchaser
8. Refer to section 7(m), (n) and (o) – Purchaser is required to enter into contracts with electricity, water and gas suppliers as their own costs
9. Refer to section 7(p) - reimburse the vendor for any costs related to subdivision esthetic enhancements imposed by approval authorities
10. Refer to section 8 – any taxes applicable to any adjustments
11. Refer to sections 9 – 14 – H.S.T. assignment and related costs
12. Refer to section 15 – any post-closing fees or payments related to interim occupancies
13. Refer to section 28 – cost of rental equipment, if any
14. Refer to section 46 – interest at a rate of 18% per annum on any default amounts

**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.

# 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://tarion.com) and log into our online learning hub at [www.tarion.com/learninghub](http://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](http://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](http://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](mailto:customerservice@tarion.com).



**ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE DOCUMENTS  
AND ACCEPTED AGREEMENT OF PURCHASE AND SALE  
ELM&CO**

**TO: STATEVIEW HOMES (ELM&CO) INC.**

**RE: UNIT 6, LEVEL, SUITE, of the 206 common element townhouses to be constructed at the property now known as 12942 York Durham Line, Whitchurch-Stouffville, Ontario.**

The undersigned acknowledges that he/she/they has/have received the following documents from STATEVIEW HOMES (ELM&CO) INC. for the residential condominium marketed as "ELM & CO Collection" being developed on those lands and premises described as In the Town of Whitchurch-Stouffville in the Regional Municipality of York, being part of Part Lot 5, Concession 10, Whitchurch, Part 1, Plan 65R37148, comprising part of PIN 03707-0188, Land Registry Office for the Land Titles Division for York (No.65), municipally known as 12942 York Durham Line, Whitchurch-Stouffville, Ontario, namely:

1. the Disclosure Statement, including the Table of Contents;
2. the Proposed Condominium Declaration;
3. proposed By-law No. 1, being the general organizational by-law of the proposed Condominium;
4. proposed By-law No. 2, authorizing the proposed Condominium to grant the Permitted Party a licence to use the common elements for the purposes of marketing and selling the units in the Condominium and further authorizing the Condominium to assume any outstanding municipal agreements and to enter into a licence agreement to complete and fulfill all of the terms and conditions set out in any outstanding municipal agreements and to save and indemnify the Declarant harmless from and against all losses or damages sustained by the Declarant as a result of the Condominium not complying with such outstanding municipal agreements;
5. proposed By-law No. 3, setting out the procedure for any necessary mediation/arbitration of disputes;
6. proposed By-law No. 4, authorizing the proposed Condominium to enter into a limited recourse and indemnity agreement;
7. the proposed Property Management Agreement;
8. the proposed Budget outlining the common expenses for the first year of operation of the Condominium after registration;
9. proposed Schedule of Monthly Common Expenses;
10. the proposed rules of the Condominium;
11. ONE fully executed copy of the Agreement of Purchase and Sale for the above noted property being purchased, executed by the Purchaser on \_\_\_\_\_, 202\_\_ and accepted by the Vendor on \_\_\_\_\_, 202\_\_;
12. Tarion Warranty Information Sheet; and
13. a copy of Ontario's Residential Buyer's Guide.

The Purchaser(s) acknowledge(s) and confirms that he and/or she has received documents 1 to 13 inclusive in the form of electronic copies of these documents via email or other electronic format on the date as set out below. The Purchaser(s) further acknowledge(s) and confirm(s) that the Vendor has advised the Purchaser(s) that all of the documents noted above are also available in paper format at any time, free of charge, upon the Purchaser's request for same. The Purchaser(s) understands the foregoing and hereby consents to receiving the Disclosure Documents and the accompanying documents in electronic format. The Purchaser(s) acknowledges and agrees that the 10 day rescission period as set out in Section 73(2) of the Condominium Act, 1998, S.O. 1998, c. 19, as amended will begin to run from and after the date noted below. Therefore the Purchaser(s) has until 11:59 pm on the tenth (10<sup>th</sup>) day from the date noted below to terminate or cancel the Agreement of Purchase and Sale, for any reason, and receive a return of his/her deposit.

DATED at \_\_\_\_\_, this \_\_\_\_\_ day \_\_\_\_\_, 202\_\_.

Purchaser - \_\_\_\_\_
   
 (Print Name)

Purchaser - \_\_\_\_\_
   
 (Print Name)



**GOING FIRM BONUS PACKAGE\***

For a limited time only, receive the following inspired bonuses when you submit your completed Agreement of Purchase & Sale (APS)!

**\$5,000 Inspiration Gallery Credit**

**Upper Floor Laminate**

**Stone Kitchen Countertop**

**Stone Primary Ensuite Countertop**

**Electric Car Charger Conduit**

(Location at builder's discretion)

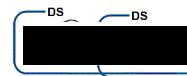
**3 Piece Stainless Steel Appliance Package**

(incl. Stove, Fridge & Dishwasher)

**Water Line Rough-in**

**Capped DCs (\$15,000)**

**Free Assignment (\$15,000 value)**



\*Limited time offer only. All above features are as per plan from the Builder's standard samples. Location of any of the above features are as per the builder's discretion. Bonus features and packages may be changed or cancelled without notice at the Vendor's sole discretion. Inspiration Gallery credits to be used towards the purchase of any upgrades, or extras at the time of colour selection from Vendor samples. Vendor will not refund any unused portion, if any, on the statement of adjustments at final closing. Inspiration Gallery credit includes HST. No cash value. Cannot be combined with any other offer. E.&O.E. Sept 27<sup>th</sup>, 2022.

# Elm & Co.

## FULL DEPOSIT BONUS PACKAGE\*

For a limited time only, receive the following when you submit your Full Deposit (within 30 Days) of execution of your Agreement of Purchase & Sale!

**10% of Deposit to be credited to Purchase Price on Final Closing\***



\*Limited time offer only. Bonus features and packages may be changed or cancelled without notice at the Vendor's sole discretion. Full Deposit includes HST. No cash value. E.&O.E. September 27<sup>th</sup>, 2022.



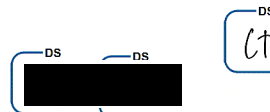
**EXTENDED DEPOSIT STRUCTURE\***

Enjoy peace of mind with an extended deposit schedule up to 18 months!

Townhomes	
Amount Due	Due Date
\$30,000	With offer
\$5,000	In 30 days
\$5,000	In 60 days
\$5,000	In 90 days
\$5,000	In 120 days
\$5,000	In 150 days
\$5,000	In 180 days
\$5,000	In 210 days
\$5,000	In 240 days
\$5,000	In 270 days
\$5,000	In 300 days
\$5,000	In 330 days
\$5,000	In 360 days
\$5,000	In 390 days
\$5,000	In 420 days
\$5,000	In 450 days
\$5,000	In 480 days
\$5,000	In 510 days
\$5,000	In 540 days
\$120,000 deposit total	

Back-to-Back Townhomes	
Amount Due	Due Date
\$30,000	With offer
\$5,000	In 30 days
\$5,000	In 60 days
\$5,000	In 90 days
\$5,000	In 120 days
\$5,000	In 150 days
\$5,000	In 180 days
\$5,000	In 210 days
\$5,000	In 240 days
\$5,000	In 270 days
\$5,000	In 300 days
\$5,000	In 330 days
\$5,000	In 360 days
\$5,000	In 390 days
\$5,000	In 420 days
\$100,000 deposit total	

\$5,000 administration fee will be added to the purchase price on final closing



\*Limited time offer only. See sales rep for full details. \$5,000 administration fee to be added to purchase price on final closing. No cash value. E.&O.E. October 4, 2022.



STATE VIEW  
HOMES

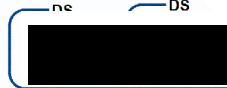
335

**CONGRATULATIONS!**

New Home owners  
Bad Boy Appliance Voucher



*This certificate entitles you to the appliances below supplied by Lastman's Bad Boy courtesy of Stateview Homes.*



**SAMSUNG**

30" Top Freezer Fridge  
RT18M64111SR

**SAMSUNG**

24" Built-in Dishwasher  
DW80R2031US

**SAMSUNG**

30" Freestanding Electric Range  
NE63A6111SS

*Don't Forget to ask about Lastman's Bad Boy special offers on home furnishings, mattresses and electronics!*



STATE VIEW  
HOMES  
*Live Inspired*

336

# TERMS & CONDITIONS

- Standard and upgrade package appliances will be delivered and installed after the closing date. It is the Homeowner's responsibility to make arrangements directly with Bad Boy in setting up delivery and install dates. Stateview Homes will not be responsible for any issues with delivery (including the delivery to the required floor of the kitchen) or damages of the appliance installation.
- 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.
- Homeowners may upgrade appliances directly with Bad Boy. Any upgrades are to be paid directly to Bad Boy 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 Bad Boy.
- Certificate has no cash value and is non-transferable.
- Extended warranties will be offered on all packages as an upgrade option
- 1 year warranty is the standard manufacture
- Models and model number may change due to availability
- Once the standard package is delivered, exchanges or returns will not be permitted.



**HOMEOWNER ACKNOWLEDGES THAT THEY HAVE READ AND ACCEPT THE TERMS AND CONDITIONS.**

STANDARD PACKAGE INCLUDES STAINLESS STEEL REFRIGERATOR, RANGE & DISHWASHER.

SITE: Elm & Co.

HOMEOWNERS: \_\_\_\_\_

LOT # 6

CLOSING DATE: January 22, 2026

CELL # \_\_\_\_\_

EMAIL: \_\_\_\_\_

AUTHORIZATION: \_\_\_\_\_  
DATE: October 13, 2022 PER Carlo Taurasi  
DocuSigned by: 9:57:43 AM EDT  
30E01E733F9B420

WARRANTY FOR 1 YEAR FROM OCCUPANCY AS PER TARIFF GUIDELINES

### Contact Us:

Toronto | Lastma's Bad Boy  
1255 Finch Avenue West,  
Toronto, Ontario M3J 2G4

Josh Robins  
Email: [josh@noobody.com](mailto:josh@noobody.com)

\*By Appointment Only!

**This is Exhibit “M” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



---

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

**JONATHAN SILVER**

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

Property 6

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 (ELM&CO) INC.
Full Name(s)
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 22nd day of January, 2026.

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 22nd day of May, 2026.

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 21st day of September, 2026.

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 25th day of May, 2027.

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 24th day of October, 2025.

(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 20th day of February, 2026.

(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 24th day of June, 2027.

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 this 13 day of October, 2022 | 9:57:43 AM EDT
VENDOR: [Redacted]

DocuSigned by: [Redacted]
PURCHASER: [Redacted]
CAFD5E7969F847A...

DocuSigned by: Carlo Taurasi
POTL TENTATIVE - October 7, 2020



**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 (ELM&CO) INC.

Full Name(s) B61469	16 - 410 Chrislea Road		
HCRA Licence Number (905) 851-1849	Address Woodbridge	Ontario	L4L 8B5
Phone (905) 851-1841	City daniel@stateviewhomes.com	Province	Postal Code
Fax	Email*		

**PURCHASER** [REDACTED]

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

**PROPERTY DESCRIPTION**

12942 York Durham Line

Municipal Address Whitchurch-Stouffville	ON	
City Part of Part Lot 5, Concession 10, Whitchurch, Part 1, Town of Whitchurch-Stouffville	Province	Postal Code
Short Legal Description		

Number of Homes in the Freehold Project 206 (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: Relevant Municipal and Regional Confirmations

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 3 day of August, 2024.

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**

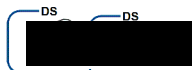
- (a) The Firm Occupancy Date, once set or deemed to be set in accordance with section 1, can be changed only:
  - (i) by the Vendor setting a Delayed Occupancy Date in accordance with section 3;
  - (ii) by the mutual written agreement of the Vendor and Purchaser in accordance with section 4; or
  - (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;



**Limited Use Freehold Form**  
**(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.

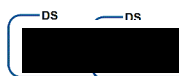
**5. Extending Dates – Due to Unavoidable Delay**

- (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":



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

**Condition #1 (if applicable)**

Description of the Early Termination Condition:

Site Plan Approval and/or development approvals have been obtained.

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

The date by which Condition #1 is to be satisfied is the 3 day of June, 2024.**Condition #2 (if applicable)**

Description of the Early Termination Condition:

Satisfactory financing for the project has been obtained.

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

The date by which Condition #2 is to be satisfied is the 3 day of June, 2024.

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.

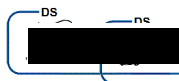
**9. Occupancy**

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



**Limited Use Freehold Form**  
**(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

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

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.

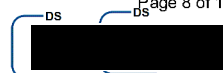
**"Unavoidable Delay Period"** means the number of days between the Purchaser's receipt of written notice of the commencement of the Unavoidable Delay, as required by paragraph 5(b), and the date on which the Unavoidable Delay concludes.

#### 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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**(Tentative Occupancy Date – POTL/CEC)**

- (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.

**For more information please visit [www.tarion.com](http://www.tarion.com)**



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

**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.

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

**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.]**

1. Refer to section 7 (f) - \$1,000.00 fee to Vendor and \$500.00 fee to Vendor’s lawyer for any NSF cheques issued by Purchaser
2. Refer to section 7 (h) - \$300.00 charge for discharge of Vendor’s Lien
3. Refer to section 7 (i) – a refundable deposit in the amount of \$2,500.00 to secure Purchaser’s obligations with respect to lot grading and related matters
4. Refer to section 7 (j) - \$600.00 fee for cost of a foundation survey
5. Refer to section 7 (l) – the cost of \$250.00 per month post-closing for each month the Purchaser fails to enter into any utility contract with the supplier and the Vendor is required to maintain such contract



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

**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.]**

1. Refer to section 7(a) – charges related to gas, water, electricity connections and meters and security deposits for related accounts
2. Refer to section 7(b) – costs for any adjustments related to fuel, water, taxes, local improvement charges to be paid for by Purchaser on closing
3. Refer to section 7(c) – Law Society of Ontario fee
4. Refer to section 7(d) – the Ontario New Home Warranties Plan Act enrollment fee
5. Refer to section 7(e) – the NHCLA regulatory fee
6. Refer to section 7(g) – the cost of any increase in levies, development charges and related charges after the date of this Agreement
7. Refer to section 7(k) – costs incurred by Vendor related to blue box recycling program to be reimbursed by Purchaser
8. Refer to section 7(m), (n) and (o) – Purchaser is required to enter into contracts with electricity, water and gas suppliers as their own costs
9. Refer to section 7(p) - reimburse the vendor for any costs related to subdivision esthetic enhancements imposed by approval authorities
10. Refer to section 8 – any taxes applicable to any adjustments
11. Refer to sections 9 – 14 – H.S.T. assignment and related costs
12. Refer to section 15 – any post-closing fees or payments related to interim occupancies
13. Refer to section 28 – cost of rental equipment, if any
14. Refer to section 46 – interest at a rate of 18% per annum on any default amounts

**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.

**This is Exhibit “N” referred to in the  
Affidavit of Kevin Brodie  
sworn remotely by Kevin Brodie at the  
Town of Aurora, in the Regional  
Municipality of York, in the  
Province of Ontario, before me  
at the City of Toronto, in the Province of  
Ontario, on August 31, 2023  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely**



---

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

**JONATHAN SILVER**

Instrument No.: \_\_\_\_\_

**DEPOSIT TRUST AGREEMENT  
FREEHOLD PROJECT**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**BETWEEN:**

TARION WARRANTY CORPORATION  
("Tarion")

OF THE FIRST PART

- and -

[VENDOR]

(the "Vendor")

OF THE SECOND PART

- and -

[ESCROW AGENT]

(the "Escrow Agent")

OF THE THIRD PART

**WHEREAS:**

- A. The Vendor intends to construct and develop \_\_\_\_\_ freehold homes in a single location, either at the same time or consecutively, as a single coordinated undertaking (the "**Freehold Project**") on the following lands and premises situated in the Town of xxx (hereinafter collectively referred to as the "**Real Property**"), namely:

Legal Description: xxx

- 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. 0.31, 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.
- 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.



**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the sum of Ten (\$10.00) Dollars of lawful money of Canada now paid by each of the parties hereto to the other, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged), the parties hereto hereby confirm the veracity of the foregoing recitals (and acknowledge and agree that same shall form an integral part of this Agreement), and further covenant and agree, to and with each other, as follows:

## **SECTION 1 - INTERPRETATION**

### **1.1 Definitions**

In addition to the defined terms set forth in this Agreement, the following words or terms shall have the respective meanings in this Agreement as ascribed to them below:

- (a) “Agreement” means this agreement and any other agreement in supplement, amendment or confirmation hereof.

### **1.2 Gender and Number**

This Agreement shall be read and construed with all changes of gender and/or number as may be required by the context.

### **1.3 Headings**

The headings of sections or subsections are provided for convenience of reference only, and do not define, limit or enlarge the construction or interpretation of this Agreement.

### **1.4 Currency**

All references to monetary amounts are references to Canadian Dollars.

## **SECTION 2 – SECURITY INTEREST**

### **2.1 Creation of Security Interest**

To secure the payment or performance, as the case may be, in full of the Secured Obligations, the Vendor hereby grants to Tarion a security interest in, and pledges and assigns to Tarion, its successors and assigns, all right, title and interest of the Vendor in, to and under the Deposit Funds (collectively, the “**Collateral**”).

### **2.2 Control of Bank Account**

Subject to the trust in favour of Purchasers, the Escrow Agent may comply with any and all lawful instructions originated by the Vendor with respect to the Collateral until such time as Tarion delivers a notice (a “**Default Notice**”) to the Vendor and the Escrow Agent indicating that an Event of Default (as defined in section 4.4 hereof) has occurred and is continuing and

Tarion is thereby exercising exclusive control over the Collateral and from and after receipt by the Vendor and the Escrow Agent of such written notice (and until the Escrow Agent receives from Tarion a written withdrawal of such notice) neither the Vendor nor any person acting through or under the Vendor shall have any access to the Collateral and the Escrow Agent shall not comply with any instructions originated by the Vendor directing disposition of the Collateral.

### 2.3 Escrow Agent

The Escrow Agent shall make no claim against or exercise any right of set-off in respect of the Collateral.

## SECTION 3 - REPRESENTATION AND WARRANTIES

### 3.1 Representations of the Vendor

The Vendor hereby represents and warrants to Tarion and the Escrow Agent that, as of the date hereof:

- a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has the corporate power and capacity to own its properties and assets and to carry on its business;
- b) it has the power and capacity to enter into this Agreement and to do all acts and things as are required or contemplated hereunder to be done, observed and performed by it;
- c) it has taken all necessary action to duly authorize the execution, delivery and performance of this Agreement;
- d) the execution and delivery of this Agreement and the performance by it of its obligations hereunder (i) do not and will not contravene, breach or result in any default under any of its constating documents or under any mortgage, lease, agreement or other legally binding instrument, licence, permit or laws to which it is a party or by which it or any of its properties or assets may be bound; and (ii) will not oblige it to grant any lien or security interest in respect of the Collateral to any person;
- e) this Agreement constitutes, or upon execution and delivery will constitute, a valid and binding obligation of it, enforceable against it in accordance with its terms, subject only to bankruptcy and insolvency laws affecting the enforcement of creditors' rights generally and the availability, in the discretion of a court of competent jurisdiction, of equitable remedies;
- f) it has obtained or made formal application to Tarion to obtain confirmation of qualification for enrolment of the homes (as defined in the ONHWP Act) in the Freehold Project under the ONHWP Act;

- g) no creditor of the Vendor has (or will have) any security interest or other claim in the Collateral ranking prior to the interests of Tarion created by virtue of this Agreement, and the Vendor covenants to obtain and deliver to Tarion, upon Tarion's request, all such acknowledgements or postponements, in form and substance satisfactory to Tarion, from any or all creditors of the Vendor evidencing that any security interests or other claims of such creditors do not attach to the Collateral, or such security interest(s) rank behind the interests of Tarion in and to the Collateral; and
- h) the Vendor has (or will have) rights in and to the Collateral, prior to the delivery thereof by the Vendor to the Escrow Agent.

### 3.2 Representations of the Escrow Agent

The Escrow Agent hereby represents and warrants that it meets Tarion's requirements for firms acting as escrow agents as communicated in writing to the Escrow Agent by Tarion on or before the date of this Agreement.

### 3.3 Survival of Warranties

The representations and warranties contained in Section 3.1 and Section 3.2 hereof shall survive and continue in full force and effect for the benefit of Tarion until this Agreement is terminated in accordance with the provisions hereinafter set forth.

## SECTION 4 - THE ESCROW ACCOUNT

### 4.1 Vendor's Responsibilities With Regard to Deposit Funds

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; and
- c) Purchasers shall not be permitted to use New Home Deposit Bonds (or other similar instruments) to secure the payment of Deposit monies.

### 4.2 Escrow Agent Responsibilities

The Escrow Agent covenants and agrees with Tarion that:

- a) the Escrow Agent shall register a financing statement evidencing Tarion's security interest in the Collateral (as noted in 2.1 above) for a term of 5 (five) years under the Personal Property Security Act (Ontario) ("**PPSA**"), and shall provide a legal opinion to Tarion confirming that, among other things, a security interest was created in the Collateral in favour of Tarion and Tarion's security interest in the Collateral ranks ahead of all other creditors of the Vendor;
- b) the Escrow Agent shall renew the term of the financing statement referred to above for a further five (5) year period on the date that is 30 (thirty) days prior to the 5<sup>th</sup> (fifth) anniversary of the registration made pursuant to paragraph (a) above (the "**Renewal Date**") if, on such Renewal Date, this Agreement has not been terminated;
- c) as soon as the Escrow Agent has received any funds representing a Deposit delivered to it by or on behalf of the Vendor in accordance with Section 4.1(b) hereof, the Escrow Agent shall forthwith deposit such funds into the Bank Account;
- d) all Deposit Funds held by the Escrow Agent are (i) held in trust for the Purchaser pursuant to the Addendum; and (ii) subject to the trust referred to in (i), held in trust for Tarion and subject to Tarion's security interest pursuant to this Agreement;
- e) within 10 (ten) days of depositing any such monies into the Bank Account the Escrow Agent shall, on behalf of the Vendor and in accordance with the provisions of the Addendum and this Agreement, provide to the person or persons who paid the Deposit written evidence that such amounts are held in trust as required by the Addendum; and
- f) the Escrow Agent shall not release any Deposit Funds (together with all prescribed interest earned or accrued thereon) to the Vendor or any other person except in strict compliance with the provisions of the Addendum and this Agreement.

#### 4.3 Tarion Consent

Tarion hereby consents to the Escrow Agent placing the Deposits in the Bank Account and investing said Deposits in accordance with the joint direction of Tarion and the Vendor.

#### 4.4 Trust

- (a) The Escrow Agent hereby agrees with Tarion to retain and hold all Deposit Funds (arising from Deposits received) in trust for Tarion, subject to the overriding trust provisions of the Purchaser Trust and Tarion agrees that the Escrow Agent shall only be required to retain and hold the Deposit Funds so received in accordance with the Addendum and this Agreement.
- (b) Without limiting the generality of the foregoing, the Vendor and the Escrow Agent agree with Tarion that if any of the following events (each an "**Event of Default**") occur:
  - (i) Tarion determines on any date prior to the termination of this Agreement, that the Vendor is in breach of any of its obligations arising under (a) this Agreement; (b) the Vendor/Builder Agreement; and/or (c) the ONHWP Act;

(ii) the interest of the Vendor in the Project is at any time seized or taken in execution by any creditor of the Vendor;

(iii) the Vendor commits any act of bankruptcy or otherwise becomes bankrupt or insolvent, or makes a general assignment for the benefit of its creditors, or purports to liquidate, or wind up its operations; or

(iv) a receiver or receiver and manager is appointed to administer all or any substantial portion of the Vendor's property or assets;

then at the option of Tarion, all Deposit Funds held in the Bank Account shall, on written notice to the Vendor and the Escrow Agent, be forthwith released to Tarion or disbursed in accordance with the written direction of Tarion, as and when Tarion deems appropriate, and without prejudice to either or both of Purchaser claims and/or Tarion's claims upon or against the Vendor for any deficiency, and the Escrow Agent may rely on such written direction without inquiring as to the authority of Tarion to give such direction under this subparagraph. Any funds so received by Tarion prior to the Purchaser Termination Date shall as applicable be held in trust for the applicable Purchasers.

- (c) The Vendor shall not be entitled to withdraw any funds from the Bank Account by cheque or otherwise.
- (d) Save and except in those circumstances provided in Sections 5.1 and 5.3 below, the Escrow Agent shall not pay or withdraw any funds from the Bank Account without the prior written consent (or direction) of Tarion.
- (e) The interests of Tarion in the Collateral created by this Agreement shall be in addition to (and without prejudice to) any other security now or hereafter held by Tarion in connection with the Freehold Project.

#### 4.5 **Signing Authority**

The Escrow Agent shall have the sole signing authority for withdrawals or cheques drawn on the Bank Account.

#### 4.6 **The Purchaser Trust**

Notwithstanding anything hereinbefore or hereinafter provided to the contrary, it is expressly understood and agreed that no withdrawal of funds shall be directed by Tarion which would render the Escrow Agent liable to any of the Purchasers for a breach of the Purchaser Trust.

#### 4.7 **Monthly Reporting**

- (a) The Vendor shall, on a monthly basis, within fifteen (15) business days after the end of each calendar month, provide to the Escrow Agent the following:
  - (i) A written report ("**Sales and Deposits Report**") confirming the particulars of each and every Home sale transaction for the Freehold Project for which Deposits have been received including: the relevant Purchaser(s) name;

Deposit Amount; date Deposit was received; Home address or legal description; date of Purchase Agreement; the outside date for satisfaction or waiver of any Early Termination Conditions; total number of Homes sold; and number of sales terminated (if any) in the month; total amount of Deposits required under Purchase Agreements required to be paid for the month; and the aggregate dollar amount of all Deposits received by the Vendor during the preceding month; and the aggregate of all Deposits received to date by and on behalf of the Vendor and remitted to the Escrow Agent;

- (ii) A true copy of a statutory declaration of a senior officer of the Vendor (in form approved by Tarion) (the "**Vendor's Declaration**") confirming:
  - A. In the calendar month \_\_\_\_\_, 20\_\_\_\_, the Vendor or Escrow Agent received Deposits totaling \$\_\_\_\_\_.
  - B. All of the Deposits referred to [above] received by the Vendor have been delivered to the Escrow Agent.
  - C. The Purchaser Trust Termination Date is \_\_\_\_\_.
  
- (b) The Escrow Agent shall, on a monthly basis, within fifteen (15) business days after the end of each calendar month, provide Tarion with:
  - (i) A true copy of the Vendor's Declaration;
  - (ii) A true copy of a statutory declaration by the Escrow Agent containing the following provisions:
    - A. I have received and attach hereto a copy of the Vendor Declaration for the calendar month \_\_\_\_\_, 20\_\_\_\_.
    - B. I have reviewed the bank records for the Bank Account and declare that the aggregate amount of Deposits (excluding interest and excess deposits that are not Deposits) held in the Bank Account and subject to the terms of the Deposit Trust Agreement as of \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, is \$\_\_\_\_\_.
    - D. Without having undertaken any independent investigation or inquiry with respect thereto, other than reviewing: the Vendor Declaration; and the files in the possession of (and the bank accounts in the control of) the law firm of which I am a partner, associate or employee, I do hereby declare that I have no knowledge of any facts or circumstances which would render this Declaration untrue or inaccurate.
  
- (c) The signed and sworn Vendor's Declaration and Escrow Agent's Declaration shall be scanned and sent to Tarion by email at [security@tarion.com](mailto:security@tarion.com) (or such other address as Tarion may specify in writing). The scanned attachments shall be sent as a PDF or such other format as Tarion may designate from time to time in writing.

- (d) Tarion may waive all or part of the above-noted reporting requirements by written notice to the Vendor and Escrow Agent.
- (e) Upon written request from Tarion, the Vendor and/or Escrow Agent shall also provide a copy of the Sales and Deposit Report.

## **SECTION 5 - RELEASE OF FUNDS**

### **5.1 Refund of Deposits to Purchasers**

Upon the delivery of a written notice from the Vendor to the Escrow Agent (with a copy to Tarion) stating that a Purchaser is entitled to a refund of their Deposits, for example such funds are due to the Purchaser because:

- (a) the Purchaser has exercised a purchaser condition;
- (b) the Vendor is in default and is required at law to return deposits;
- (c) the Vendor and Purchaser have entered into a settlement agreement which calls for repayment;
- (b) it is so ordered by Court Order; or
- (c) an Early Termination Condition is not satisfied or waived in accordance with the Purchase Agreement,

the Escrow Agent is hereby authorized and directed by Tarion and the Vendor to thereupon issue a cheque drawn on the Bank Account payable to the named Purchaser (or to whomsoever the said Purchaser may in writing so direct) in the amount of his or her Deposits, together with all prescribed interest earned or accrued thereon.

The Vendor acknowledges that in connection with any return to a Purchaser or Purchasers of Deposits that unless Tarion agrees in writing otherwise, the Vendor shall immediately provide to Tarion alternate performance security satisfactory to Tarion for that portion of the returned Deposit that constitutes the Tarion Security Amount.

### **5.2 Tarion's Ability to Direct Funds Out of Bank Account**

Subject to the overriding trust provisions of section 4.6 hereof, if, at any time prior to the termination of this Agreement, Tarion deems it appropriate, in its sole and unfettered discretion whether before or after an Event of Default, to direct the Escrow Agent to withdraw monies from the Bank Account to pay and/or reimburse Tarion for any costs it has (or may) incur under its mandate, in connection with the Freehold Project, or for any payments now or hereafter made by Tarion to any of the Purchasers in the Freehold Project, in connection with the return/refund of their respective Deposits; or after the Purchaser Trust Termination Date failure by the Vendor to comply with the Secured Obligations, then the Escrow Agent shall

immediately honour and comply with any such direction, **without inquiring into the right of Tarion to make such direction**, and the Vendor hereby concurs with same.

### 5.3 **After the Purchaser Trust Termination Date**

The Vendor shall advise Tarion and the Escrow Agent in writing when the Purchaser Trust Termination Date has occurred with evidence that all Deposits owing to Purchasers whose Purchaser Agreement was terminated pursuant to an Early Termination Condition have received a full refund of Deposits as contemplated by section 5.1 above.

The parties also acknowledge that the Tarion Security Amounts shall after the Purchaser Trust Termination Date be held by the Escrow Agent in trust for and subject to the security interest of Tarion and otherwise upon and subject to the terms of this Agreement. For greater certainty from and after the Purchaser Trust termination Date no amounts shall be released by the Escrow Agent without the express written consent of Tarion.

### 5.4 **Payment to the Vendor/Termination of Agreement**

Notwithstanding anything hereinbefore or hereinafter provided to the contrary, it is understood and agreed by the parties hereto that save and except for the indemnity of the Escrow Agent by the Vendor, as set forth in section 6.8 hereof, this Agreement (and all liabilities and obligations of the Vendor and the Escrow Agent to Tarion hereunder) shall automatically be terminated on the last to occur of the following:

- (a) Purchaser Trust Termination Date;
- (b) after the Purchaser Trust Termination Date upon Tarion's written notification that it has received security satisfactory to Tarion for Tarion Security Amounts; and
- (b) upon Tarion's written notification to the Vendor and the Escrow Agent that the Vendor's Secured Obligations have been satisfied.

whereupon Tarion shall:

- (i) confirm to the Escrow Agent that the foregoing has occurred;
- (ii) authorize and direct the Escrow Agent to release all Deposits to the Vendor (or to whomsoever the Vendor shall designate in writing); and
- (iii) authorize the Escrow Agent to register a PPSA financing change statement evidencing and confirming the discharge of Tarion's security interest in the Collateral.

## **SECTION 6 – GENERAL**

### 6.1 **Further Assurances**



The Vendor, the Escrow Agent and Tarion shall hereafter do, make and execute all such documents, acts, matters, and things as may be required in order to give effect to this Agreement.

## 6.2 Notices

Any notice or other communication to be given hereunder (a “Notice”) shall be in writing and may be effectively given by delivering the same by courier or personally at the addresses hereinafter set forth, or by sending the same by prepaid registered mail to the parties at such addresses or by transmitting by electronic means (including email and through BuilderLink portal). All Notices delivered personally, by courier, or by electronic means before 5:00 p.m. on a business day shall be deemed to have been received on that day. Any Notice so mailed shall be deemed to have been received on the third business day (i.e. excluding Saturdays, Sundays and statutory holidays) next following the mailing thereof, provided the postal service is in operation during such time. During any interruptions of postal service, all Notices shall be delivered by courier, personally, or by electronic means. Any notice delivered after 5:00 p.m. shall be deemed to have been received on the next business day following the date of such delivery. The addresses of the parties for the purposes hereof shall respectively be:

### Vendor:

Attention:  
 Phone No.:  
 Email:

### Tarion:

Tarion Warranty Corporation  
 5160 Yonge Street, 7th Floor  
 TORONTO ON M2N 6L9  
 Attention:  
 Phone No.:  
 Email:

### Escrow Agent:

Attention:  
 Phone No.:  
 Email:

Any party hereto may from time to time notify each of the other parties hereto, in accordance with the provision hereof, of any change of address which thereafter, until changed by like Notice, shall be the address of such party for all purposes of this Agreement.

## 6.3 Successors, etc.

Subject, in the case of the Escrow Agent only, to Section 6.9 hereof, this Agreement shall be binding upon, and enure to the benefit of each of the parties hereto and their respective successors and assigns, provided however, that the Vendor may not assign its rights or interest hereunder, without the prior written consent of Tarion which consent may be arbitrarily withheld.

#### 6.4 **Governing law**

This Agreement, the transactions referred to herein and all other documents delivered hereunder shall be construed and interpreted in accordance with the laws of Ontario.

#### 6.5 **Time**

Time shall be of the essence of this Agreement and the transactions contemplated herein.

#### 6.6 **No Partnership Created**

Nothing herein shall be construed so as to make Tarion, the Escrow Agent and/or the Vendor the partner(s) of one another.

#### 6.7 **Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and, except as herein stated and in the documents to be executed and delivered pursuant hereto, contains all of the representations, undertakings or agreements of the respective parties. There are no verbal representations, undertakings or agreements of any kind between the parties hereto with respect to the subject matter hereof except as stated herein. This Agreement may not be modified or amended except with the written consent of all parties hereto.

#### 6.8 **Reliance by Escrow Agent**

The Escrow Agent shall be entitled to rely upon any written confirmation, notice, request, direction or other instrument (hereinafter collectively referred to as an "Instrument") furnished to it by any other party to this Agreement, without inquiring into the due authorization, execution or delivery of such Instrument, or the authority of the person delivering such Instrument to it, or the correctness of the matters set out therein. Provided that if the Escrow Agent acts honestly, in good faith and not negligently, and in strict accordance with the provisions of this Agreement, it shall not be liable for any costs, damages, liabilities, actions or causes of action arising from the carrying out of its duties hereunder, and the Vendor hereby agrees to indemnify and save the Escrow Agent harmless in respect of all of the foregoing, which indemnity shall survive the termination of this Agreement.

#### 6.9 **Resignation of the Escrow Agent**

The Escrow Agent may resign and be discharged from any further duties or liabilities hereunder by giving thirty (30) days written notice to the Vendor and Tarion (or such shorter notice as they may accept) provided that a successor Escrow Agent, acceptable to both Tarion and the Vendor, is approved prior to the effective date of such resignation, and provided further that the successor Escrow Agent confirms in writing to both Tarion and the Vendor that it shall be liable for the performance and fulfillment of all covenants and obligations imposed upon the Escrow Agent as set forth in this Agreement, and shall be bound thereby as if the successor Escrow Agent had been originally named and appointed as Escrow Agent herein.



6.10 **Paramountcy**

The parties hereto agree that the terms and conditions of this Agreement shall at all times be subject to the overriding Purchaser Trust provisions.

6.11 **Electronic Signatures**

This Agreement may be executed by any or all of the undersigned parties in wet-ink, or by way of an electronic signature in accordance with the provisions of the *Electronic Commerce Act, 2000, S.O. 2000, c. 17*, as amended, and a photocopy or a scanned and e-mailed copy of this executed Agreement (whether signed in wet-ink or electronically) may be relied upon and enforced to the same extent as if it were an original executed version.

**IN WITNESS WHEREOF** the parties hereto have duly executed this Agreement as of the date first above-mentioned.

**TARION WARRANTY CORPORATION**

**[VENDOR]**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

Name:  
Title:

Name:  
Title:

I have authority to bind the Corporation.

Per: \_\_\_\_\_

Name:  
Title:

I/We have authority to bind the Corporation.

**[ESCROW AGENT]**

Per: \_\_\_\_\_

Name:  
Title:

I have authority to bind the Corporation.

KINGSETT MORTGAGE CORPORATION et al.	STATEVIEW HOMES (MINU TOWNS) INC. et al.	Court File No. CV-23-00698395-00CL
DORR CAPITAL CORPORATION	HIGHVIEW BUILDING CORP INC.	CV-23-00698632-00CL
DORR CAPITAL CORPORATION	STATEVIEW HOMES (BEA TOWNS) INC.	CV-23-00698637-00CL
ATRIUM MORTGAGE INVESTMENT CORPORATION et al.	STATEVIEW HOMES (NAO TOWNS II) INC. et al.	CV-23-00698576-00CL
MERIDIAN CREDIT UNION	STATEVIEW HOMES (ELM&CO) INC.	CV-23-00699067-00CL
<b>Applicants</b>	<b>Respondents</b>	

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

Proceeding commenced at TORONTO

**AFFIDAVIT OF KEVIN BRODIE**

**Torys LLP**

79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**David Outerbridge** (LSO #: 42724V)

Tel: 416.865.7825

Email: [douterbridge@torys.com](mailto:douterbridge@torys.com)

**Adam M. Slavens** (LSO#: 54433J)

Tel: 416.865.7333

Email: [aslavens@torys.com](mailto:aslavens@torys.com)

**Jonathan Silver** (LSO#: 70137Q)

Tel: 416.865.8198

Email: [jsilver@torys.com](mailto:jsilver@torys.com)

**Mike Noel** (LSO#: 80130F)

Tel: 416.865.7378

Email: [mnoel@torys.com](mailto:mnoel@torys.com)

Lawyers for Tarion Warranty Corporation



TAB3

Court File No. 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**

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

---

**DORR CAPITAL CORPORATION**

Applicant

- and -

**STATEVIEW HOMES (BEA TOWNS) INC.**

Respondent

---

**DORR CAPITAL CORPORATION**

Applicant

- and -

**HIGHVIEW BUILDING CORP INC.**

Respondent

---

---

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

Applicants

- 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**

**AFFIDAVIT OF KEVIN BRODIE  
(sworn September 14, 2023)**

I, Kevin Brodie, of the Town of Aurora, in the Regional Municipality of York, in the Province of Ontario, MAKE OATH AND SAY:

1. I am Vice President, Underwriting at Tarion Warranty Corporation (“**Tarion**”). As such, I have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess such personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.

2. I am swearing this affidavit as a Supplementary Affidavit to my affidavit sworn in this proceeding on August 31, 2023 (“**First Affidavit**”). All capitalized terms in this affidavit have the same meaning as they do in the First Affidavit.

3. In my First Affidavit, I attached media reports describing financial impropriety on the part of the Stateview Debtor Companies. In this affidavit, I include a few additional news articles that deal directly with the allegation of fraud made by the President and CEO of the Stateview Debtor Companies against the companies’ Chief Financial Officer. I attach those additional news articles as **Exhibit “A”** and **“B”**.

4. In my First Affidavit, I also included a sample agreement of purchase and sale entered into between a Stateview Debtor Company and a New Home Purchaser. I attach an additional example agreement of purchase and sale to this affidavit as **Exhibit “C”**, which includes an updated deposit schedule as an addendum to the original agreement.

**SWORN** remotely by Kevin Brodie of the Town of Aurora, in the Regional Municipality of York, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on September 14, 2023, in accordance with O.Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits  
(or as may be)

**MIKE NOEL**



**KEVIN BRODIE**



THIS IS **EXHIBIT “A”** REFERRED TO IN THE  
AFFIDAVIT OF KEVIN BRODIE,  
SWORN REMOTELY BY KEVIN BRODIE BEFORE  
ME *BY VIDEO CONFERENCE*, THIS 14th DAY OF  
SEPTEMBER, 2023



---

Mike Noel  
Commissioner for Taking Affidavits

Toronto · CBC Investigates

## Ontario home developer accused of \$37M 'cheque-kiting' fraud scheme

Court filings raise questions about buyers' deposits on StateView units

[Samantha Beattie](#) · CBC News · Posted: Apr 27, 2023 4:00 AM EDT | Last Updated: April 27



StateView Homes's head office is located in Woodbridge, Ont. TD Bank alleges the company carried out a cheque-kiting scheme to the tune of more than \$37 million between April 2022 to last month. (Paul Smith/CBC)

A major Ontario home developer is facing startling allegations from one of the big five banks that it orchestrated a "highly sophisticated," year-long fraud totalling over \$37 million.

TD Bank has filed a lawsuit against StateView Homes, based in Woodbridge, Ont., north of Toronto, and headed by brothers Carlo and Dino Taurasi, alleging the company carried out a "cheque-kiting" scheme from April 2022 to last month.

The lawsuit also names as defendants 25 associated corporations, five directors of those companies and StateView's former chief financial officer Daniel Ciccone.

TD alleges the defendants wrote thousands of bad cheques for large sums of money from both corporate and personal accounts at other banks, according to its statement of claim, filed in the Ontario Superior Court of Justice in Toronto.

TD alleges the defendants would cash the cheques into TD accounts and TD would conditionally release the money before the cheque cleared. The bank says the defendants would quickly withdraw the funds and then cancel the cheque to prevent the money from actually being transferred to the TD account.

- **Got a tip? Email [samantha.beattie@cbc.ca](mailto:samantha.beattie@cbc.ca) or [torontotips@cbc.ca](mailto:torontotips@cbc.ca).**

Over the course of the year, that left TD being owed \$37,028,055.73 plus interest, the bank claims.

"Review of the account histories revealed what appears to be a highly sophisticated cheque kiting fraud spanning about 12 months and dozens of accounts, implicating multiple financial institutions," the bank says in its claim.



Brothers Dino, left, and Carlo Taurasi run the company. A StateView executive says they didn't know about or participate in the alleged scheme and are co-operating with TD to repay the money. (Stateviewhomes.com)

To avoid detection, the defendants were routinely doing these "sham transactions" across 22 accounts to create the illusion of fresh funds coming in, TD alleges.

While StateView did not file a statement of defence, it appears to have a proposed settlement agreement with TD to pay back all the money by July, according to a signed copy of the agreement viewed by CBC Toronto but not contained in publicly available court documents.

Another court document seen by CBC Toronto indicates the lawsuit was filed in order to cement the settlement.

Neither TD nor StateView would comment on the settlement.

Three other lenders are also suing — to get back nearly \$200 million they loaned StateView for developments in King City and Markham, Ont.

Two lenders, KingSett Mortgage Corporation and Dorr Capital Corporation, allege in statements of claim that StateView has not paid development charges and permits, or what

it owes contractors for one project, and has tried to sell another without the lenders' consent.

These court actions raise questions about the future of about 1,400 homes StateView has planned across the Toronto area, many of which have already been sold but not yet built.



A design rendering for StateView Homes's Nao Towns II in Markham, Ont., currently under construction. (stateviewhomes.com)

## Developer blames former executive

In a statement to CBC Toronto, StateView said Carlo and Dino Taurasi didn't know about or participate in the alleged scheme and are co-operating with TD to repay the money.

The alleged fraud "was perpetrated solely at the hands" of the company's former CFO, Ciccone, the statement said.

"When they were alerted to the situation [in March], Carlo and Dino immediately co-operated with the investigation and were quick to remove the CFO from his position."

"Neither Carlo nor Dino benefits financially from these activities," StateView said. "This situation has caused extensive disruption to their personal lives and created significant

hardships to them personally and to their families as they work towards a resolution."



StateView's 206-unit Elm & Co project in Stouffville, which TD Bank will hold for security as part of a settlement agreement, is seen in this aerial photo from 2022. (Patrick Morrell/CBC)

CBC Toronto attempted to reach Carlo and Dino Taurasi through both the company and their lawyer, but did not receive a response. Emails and a phone call to Ciccone went unanswered.

In the proposed settlement, until the money is repaid, TD plans to hold 31 properties including at least three of StateView's pre-construction projects in southern Ontario: Nao Towns II in Markham, Bea Towns in Barrie and Elm&Co in Whitchurch-Stouffville.

StateView has planned to build over 500 homes in those projects, according to its website.

TD has also proposed taking control of several luxury homes belonging to Carlo and Dino Taurasi in King City and Richmond Hill and ski chalets in Collingwood.

## Second lawsuit

StateView and its subsidiaries are facing other financial challenges.

The lenders Atrium Mortgage Investment Corporation and Dorr Capital Corporation earlier this week filed a claim against Carlo, Dino and StateView's Nao Towns II corporation — seeking immediate repayment of a \$24 million loan for the 96-unit project under construction in Markham.

It's also one of the many StateView properties TD is eyeing.

When the lenders learned about the cheque-kiting allegations, they demanded their money back from StateView, they said in their statement of claim, also filed in the Ontario Superior Court of Justice.

The lenders also allege StateView failed to make its monthly interest payment of \$277,000 in April, and took out additional mortgages on the properties without advising Atrium and Dorr.

KingSett and Dorr filed a separate claim Wednesday, demanding that StateView pay back a further \$172 million in loans for a commercial industrial property and four developments: Minu Towns, Nao Towns and On the Mark in Markham, and High Crown Estates in King City, where it plans to build 530 units.

They allege in their claim that StateView "effectively has no liquidity" and liens are being registered against at least one of the properties, On the Mark, for unpaid taxes, development charges and contractor fees, which could delay the closing of the project.

"KingSett has been made aware that certain funds advanced by KingSett for the explicit purpose of paying development charges to the City of Markham and the Township of King have been diverted and used for other purposes," the lender says in the statement of claim.

KingSett said it hired a firm to find out where the money went, but StateView's books and records are either incomplete or nonexistent.

KingSett and Dorr also allege that StateView couldn't pay its monthly interest on the loan because of insufficient funds in their accounts.

According to their claim, they weren't informed that StateView was entering into a settlement agreement with TD to immediately begin repaying the \$37 million.

All three lenders are asking the courts to order a receiver to take control and sell off StateView's assets and properties to repay the debt.

StateView has not yet filed a statement of defence for these cases.

## What about the home buyers?

StateView said in its statement it understands buyers and lenders are concerned. But the company said it plans to "complete all projects currently under construction."

"We ... are actively working with our partners to move forward with as many projects as possible while also recognizing the position of our lenders."

- [Ontario has over a million homes in the pipeline, but needs developers to put shovels in the ground: report](#)
- [CBC INVESTIGATES Homebuyers set to lose unprotected deposits of up to \\$150K after GTA developer refused licences](#)

Insolvency lawyer David Schatzker, who is not involved in the case, says if lenders succeed in getting a receiver to take control of StateView properties, there's not a lot concerned buyers could do.

The receiver may allow the project to finish and the buyers would be able to complete their home purchases, he said.

However if a receiver orders the projects sold to repay lenders, those buyers may never see the homes they bought, or their deposits.

"Ultimately they may suffer a loss if the project is not completed," Schatzker said.

"They might theoretically at some point sue the developer but the likelihood is that, after the receivership is completed, there's probably not going to be a lot of money left over."

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## Corrections

- A previous version of this story contained a photo of townhomes with a caption that said they were part of a StateView Homes development. Those homes are not a StateView development, and so the photo has been removed from the story.



Apr 27, 2023 1:33 PM ET

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*With files from Ryan Patrick Jones and John Lancaster*

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---

Mike Noel

Commissioner for Taking Affidavits

Toronto

## Ontario home developer agrees to place several GTA townhome projects into receivership

Future of hundreds of units unclear as StateView Homes consents to appoint receiver amid fraud allegations

[Ryan Patrick Jones](#) · CBC News · Posted: May 03, 2023 4:00 AM EDT | Last Updated: May 3



StateView Homes's head office is located in Woodbridge, Ont. The company has agreed to the appointment of a receiver to oversee the potential sale of six of its residential developments and other properties after

three lenders demanded repayment of almost \$200 million in loans. (Paul Smith/CBC)

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An embattled Greater Toronto Area home developer facing multi-million dollar allegations of financial wrongdoing has agreed to the appointment of a third-party receiver to manage the potential sale of several uncompleted townhome developments, throwing the future of hundreds of pre-sold homes into doubt.

More than a dozen lawyers representing the developer — Woodbridge, Ont.-based StateView Homes — attended a virtual hearing of the Superior Court of Justice of Ontario Tuesday, along with three of its lenders, the proposed receiver and other stakeholders.

The purpose was for the lenders to ask the court to appoint KSV Restructuring Inc. as receiver for six residential townhouse developments and other properties after they launched civil lawsuits demanding repayment of almost \$200 million in loans.

A lawyer representing StateView and its affiliated companies told the hearing that the developer consented to the appointment.

"We view this as the best way forward to make sure that these projects have the best chance of succeeding and that the purchasers get the homes they've bought," lawyer James Renihan, representing StateView, told the court.

Justice Jana Steele, who presided over the hearing, signed four court orders Tuesday formalizing the appointment of KSV as receiver. The orders were [posted to KSV's website](#) Wednesday.

- **CBC INVESTIGATES** [Ontario home developer accused of \\$37M 'cheque-kiting' fraud scheme](#)

Last week, CBC Toronto reported that lenders Kingsett Mortgage Corporation, Dorr Capital Corporation and Atrium Mortgage Investment Corporation launched court actions after learning that TD Bank had accused StateView, 25 associated corporations, five directors and executives of perpetrating [an alleged year-long "cheque-kiting" scheme that cost the bank \\$37 million](#).

StateView Homes blamed the alleged fraud, which TD alleged involved the cashing of thousands of bad cheques from both corporate and personal accounts at other banks, on

its former chief financial officer.

Kingsett and Dorr alleged they weren't informed that StateView had entered into a settlement agreement with TD to immediately begin repaying the \$37 million. The lenders also alleged that StateView had "effectively has no liquidity" and had missed monthly interest payments, among other financial issues.

"The StateView companies and their owners had no knowledge or involvement of the irregularities that led to these problems and are working hard to fix them, and we're working hard to do that through this receivership process," Renihan reiterated in court Tuesday.

## Future of homes still in question

A receivership is a way for secured creditors to recover debts they are owed by taking possession of assets or property and selling or liquidating them to repay the outstanding debt.



StateView's On The Mark development in Markham, Ont., is in mid-construction. (Jonathan Castell/CBC)

According to prior court filings, the three lenders were asking the court to appoint a receiver for six residential developments for which they lent money, some of which are already under

construction and others that are in the pre-construction stage. In all, more than 700 homes are planned for the sites, many of which have been pre-sold.

The StateView developments include:

- Minu Towns (147 homes), Nao Towns and Nao Towns II (172 homes) and On the Mark (163 homes) in Markham, Ont.
- High Crown Estates (48 homes) in King City, Ont.
- Bea Towns (218 homes) in Barrie, Ont.

The lenders also asked in those filings to appoint a receiver for two properties in Kleinburg, Ont., that are owned by Highview Building Corp., a subsidiary of StateView Homes, and a commercial industrial property owned by TLSFD Taurasi Holdings.



Brothers Dino, left, and Carlo Taurasi run StateView Homes. In a statement, they said they had nothing to do with the 'wrongful conduct' of their previous chief financial officer and have been co-operating with lenders to find a solution. (Stateviewhomes.com)

Lawyer Sean Zweig, who represented Kingsett and Dorr at the hearing, said the three lenders agreed that the receiver would not sell any properties before May 29 so StateView has an opportunity to refinance and possibly pay back some or all of its lenders.

A hearing is scheduled for June 5 to grant the receiver approval to sell the properties, provided a refinancing isn't successful, Zweig said.

## What about the buyers?

StateView Homes declined to comment on how the buyers will be affected, saying the matter is before the court.

However, founders Dino and Carlo Taurasi said in a statement that they had no involvement in the "wrongful conduct" of the company's former CFO, Daniel Ciccone, whom they said was fired as soon as they learned of the situation.

"Since that time, Dino and Carlo have been working tirelessly with all affected lenders and stakeholders to find a mutually beneficial solution for all parties and to move forward with their business and projects," the statement said.

Insolvency lawyer David Schatzker, who is not involved in the case, previously told CBC Toronto that if the lenders succeeded in having a receiver appointed, there's not a lot buyers who have already paid deposits can do.

The receiver may allow the project to finish and the buyers would be able to complete their home purchases, he said. However, if the receiver orders the projects sold to repay the lenders, those buyers may never see the homes they bought because the new developers would be under no obligation to honour the contracts StateView signed with its original buyers.

Under Ontario regulations, buyers' deposits are normally protected.

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*With files from Samantha Beattie and John Lancaster*

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Mike Noel

Commissioner for Taking Affidavits



# 387

## INFORMATION FOR BUYERS OF PRE-CONSTRUCTION CONDOMINIUM HOMES

Property 132

### 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 unit<sup>1</sup>. 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.<sup>2</sup>

#### 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 01/22/2026 (Month/Day/Year). This date may be further extended. Please refer to the Statement of Critical Dates in the 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 Vendor<sup>3</sup>

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

- a. By N/A (Month/Day/Year), a set level of sales for the project has not been achieved.
- b. By 06/03/2024 (Month/Day/Year), certain zoning and/or development approvals have not been obtained.
- c. By 06/03/2024 (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 Condominium Addendum.

<sup>1</sup> 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*).

<sup>2</sup> See *Condominium Act, 1998, s.73*.

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





## INFORMATION FOR BUYERS OF PRE-CONSTRUCTION CONDOMINIUM HOMES

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<sup>4</sup>. 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:

- 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
- 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).

### 6. Zoning Status

The Vendor represents, warrants and declares that:

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

### 7. Construction Status

The Vendor represents, warrants and declares that:

- Commencement of Construction:  has occurred; or,  is expected to occur by 08/03/2024 (Month/Day/Year).
- 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.

<sup>4</sup> 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.





# INFORMATION FOR BUYERS OF PRE-CONSTRUCTION CONDOMINIUM HOMES

## 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 document<sup>5</sup> together with the Condominium Addendum<sup>6</sup>, forms part of your Purchase Agreement. This document, the 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 Condominium Addendum shall prevail followed by this document. Terms not defined in this document have the meaning set out in the Condominium Addendum.

## 9. 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.**

November 5, 2022 | 9:00:38 AM CDT

DATED \_\_\_\_\_ (Month/Day/Year).

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

DocuSigned by:

\_\_\_\_\_  
Purchaser Signature

\_\_\_\_\_  
Purchaser Name

DocuSigned by:  
*Carlo Taurasi*  
30E01E733F9B420...

\_\_\_\_\_  
Vendor Signature

STATEVIEW HOMES (ELM&CO) INC.

\_\_\_\_\_  
Vendor Name

- 5 HCRA'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.*



POTL/TOWNHOUSE LOT NO. 132**STATEVIEW HOMES (ELM&CO) INC.****AGREEMENT OF PURCHASE AND SALE  
COMMON ELEMENT CONDOMINIUM**1. **PURCHASER(S):** [REDACTED]

(singularly or collectively referred to as the "Purchaser"), hereby agree(s) with **STATEVIEW HOMES (ELM&CO) INC.** (the "Vendor") to purchase the dwelling known as **NO. 132**, (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 Eight Hundred and Eighty Nine Thousand Nine hundred and Ninety + 10,000 Prem + \$1 DOLLARS (\$ 889,990 + \$10,000 Prem +10,000.) 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/or credited and/or paid to the Vendor, which Purchase Price shall be payable to the Vendor as follows:

- a) the sum of **THIRTY THOUSAND DOLLARS (\$30,000.00)** as a deposit to be paid upon the execution of this agreement;
- b) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the first (1<sup>st</sup>) month after the date of execution of this Agreement by the Purchaser;
- c) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the second (2<sup>nd</sup>) month after the date of execution of this Agreement by the Purchaser;
- d) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the third (3<sup>rd</sup>) month after the date of execution of this Agreement by the Purchaser;
- e) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the fourth (4<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- f) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the fifth (5<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- g) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the sixth (6<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- h) the sum of **TEN THOUSAND DOLLARS (\$10,000.00)** by post-dated cheque as a further deposit dated the thirtieth (30<sup>th</sup>) day of the seventh (7<sup>th</sup>) month after the date of execution of this Agreement by the Purchaser;
- i) 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 TARIION 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 Taron 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 & Finishes, "B" Adjustments to Purchase Price or Balance Due on Closing, "C" Terms of Occupancy, "D" Floor Plan, "G" Assignment, "S" Site Plan, Taron Warranty Corporation's "Warranty Information for New Homes in Parcel of Tied Land" (the "Warranty Information") and Acknowledgement of Receipt of Disclosure Documents 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 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.

November 5, 2022 | 9:00:38 AM CDT

IN WITNESS WHEREOF I/we have hereunto set my/our hand(s) this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

DocuSigned by:  
[Redacted Signature]  
WITNESS: \_\_\_\_\_ PURCHASER: \_\_\_\_\_  
[Redacted Name]  
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.

November 5, 2022 | 10:14:50 AM EDT

ACCEPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**STATEVIEW HOMES (ELM&CO) INC.**

DocuSigned by:  
*Carlo Taurasi*  
30E01E733F9B420...  
Per: \_\_\_\_\_  
Authorized Signing Officer  
I have authority to bind the Corporation.

**Vendor's Solicitor:**  
Schneider Ruggiero Spencer Milburn LLP  
Attention: Bruce Milburn  
302 – 610 Applewood Crescent  
Concord, Ontario, L4K 0E3  
Telephone: 416-363-2211 ext. 208  
Telefax: 289-695-0045  
Email: [sales@srlawpractice.com](mailto:sales@srlawpractice.com)



**DEFINITIONS**

6. The following terms shall have the following meaning for the purposes of this agreement:

- a) **"Act"** shall mean the Condominium Act, 1998, S.O. 1998, C. 19, 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) **"HCRA"** means the Home Construction Regulatory Authority as designated pursuant to section 2 (1) of the NHCLA;
- l) **"Lands"** or **"Real Property"** shall mean those lands and premises comprised of: In the Regional Municipality of York, Town of Whitchurch-Stouffville, being Part of PART LOT 5, CONCESSION 10 WHITCHURCH, PART 1, PLAN 65R37148; TOWN OF WHITCHURCH-STOUFFVILLE, comprising all of PIN 03707-0188 (LT);
- m) **"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, c. P.13, 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;
- n) **"NHCLA"** means the New Home Construction Licensing Act, 2017, S.O. 2017, c. 33, Sched. 1, as amended, and the regulations thereunder;
- o) **"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;
- p) **"Occupancy Fee"** or **"Occupancy Fees"** shall mean the sum or sums of money payable as set out in the Occupancy Licence;
- q) **"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 (10%) of the Purchase Price. In the event that the ONHWP and/or the Addendum prohibits such additional deposit

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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;

- r) **"ONHWPA"** shall mean the Ontario New Home Warranties Plan Act, R.S.O. 1990, c. O.31, as amended and all its regulations and bulletins;
- s) **"POTL"** shall mean the freehold parcel-of-tied land as described on Page 4 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;
- t) **"Property"** shall mean the Dwelling and POTL collectively;
- u) **"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;
- v) **"Purchaser"** means the purchaser(s) as defined in paragraph 1 of page 4 of this Agreement to which this schedule is attached;
- w) **"Purchase Price"** means the purchase price of the Property as defined on page 4 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;
- x) **"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;
- y) **"Residential Dwelling"** or **"Dwelling"** shall mean the home to be constructed upon the POTL by the Vendor, in accordance with this agreement;
- z) **"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;
- aa) **"service provider"** or **"Service Provider"** shall mean any party providing any service or utility to the Property and/or Subdivision;
- bb) **"Developer"** means the registered owner of the Lands (including the Vendor if applicable) as of the date that the Condominium is registered;
- cc) **"Tarion"** or **"Warranty Corporation"** shall mean Tarion Warranty Corporation;
- dd) **"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;
- ee) **"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;
- (d) The Vendor represents and warrants that it is registered as a builder under the ONHWPA, as hereinbefore defined, and that the Property is or will be enrolled under the ONHWPA. 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) The Vendor represents and warrants that it is a licenced builder under the NHCLA, as hereinbefore defined. The Purchaser covenants and agrees to reimburse the Vendor on closing for the HCRA Regulatory Oversight fee paid by the Vendor for the Property under the NHCLA (together with any provincial or federal taxes eligible with respect thereto);
- (f) One Thousand Dollars (\$1,000.00) administrative fee, plus Applicable Taxes, shall be charged to the Purchaser for any cheque delivered to the Vendor plus a Five Hundred Dollar (\$500.00) fee, plus Applicable Taxes, charged by the Vendor's lawyer for any payment made by the Purchaser 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 fees shall form a credit in favour of the Vendor and Vendor's solicitor in the Statement of Adjustments for each Returned Cheque and shall be paid on the Closing Date;
- (g) 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, 1997, S.O. 1997, c. 27, as amended, the Education Act, R.S.O. 1990, c. E.2, as amended, 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, 1997, S.O. 1997, c. 27, as amended, the Education Act, R.S.O. 1990, c. E.2, as amended, 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;
- (h) 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 (on a full indemnity basis) 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 three hundred dollars (\$300.00) plus Applicable Taxes;
- (i) The Purchaser shall provide a refundable security deposit in the amount of two thousand 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

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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;

- (j) 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 six hundred dollars (\$600.00), plus Applicable Taxes, as an adjustment on Closing;
  - (k) 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;
  - (l) 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;
  - (m) 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;
  - (n) 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;
  - (o) 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; and
  - (p) 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 thirteen percent (13%) 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 Canada Excise Tax Act, R.S.C. 1985, c. E-15, as amended or the Canada Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), as amended, 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, R.S.C. 1985, c. E-15, as amended and the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.),

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as amended, 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 (on a full indemnity basis) 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 twenty percent (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:

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- 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

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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 twenty (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 willful 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, 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

19. 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 carried out 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

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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 ONHWPA 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

20. 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

21. 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

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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.

22. 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

23. 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

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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

24. 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

25. 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 twenty-four (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

26. 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

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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

27. 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 HCRA 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 HCRA or obtaining same from their website at [www.Tarion.com](http://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 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. In the event the HCRA and/or Tarion determines, directs, counsels, suggests, guides, instructs, opines or in any other way advises or decides during an Unavoidable Delay (as defined in the Addendum) event or any other public health emergency or similar type event that it is not necessary, desirable or a requirement for a PDI to occur prior to closing in the presence of both the Purchaser and the Vendor, then the Vendor shall not be required to set a date and time to meet the Purchaser or the Purchaser's representative prior to the Closing Date to conduct the PDI, the Vendor shall be permitted to complete the PDI on or before the Closing Date without the presence of the Purchaser or the Purchaser's representative and the Vendor shall be permitted to complete the PDI on behalf of the Purchaser as the Purchaser's lawful attorney in the Purchaser's name, place and stead in order to complete the PDI Form on the Purchaser's behalf and the Purchaser shall be bound as if the Purchaser or the Purchaser's designate had executed the PDI Form. For clarity, reference in this subparagraph to "PDI Form" is used interchangeably with "PDI Forms".
- 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 sub-trades 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 sub-trade 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"), 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

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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 and/or HCRA 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 matters 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/or HCRA and the Vendor agrees to complete and/or rectify same within a reasonable time after Closing (or some other date as prescribed by Tarion and/or HCRA), 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 Tarion 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, rear 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

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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.
- 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 (7) 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 (7) 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 the 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) 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.
- r) 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

28. 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,

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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

29. 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) Any Extras and upgrades selected by the builder as a result of the purchaser's failure to select shall become due and payable on closing. Amounts payable are at the builder's sole discretion.
- d) The Purchaser acknowledges and agrees that insofar as the wood finishes, marble, granite, 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.
- e) 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.
- f) 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.
- g) 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.
- h) Notwithstanding anything herein written, if at the time that this Agreement is executed, the Property constructed on the Real Property has already been substantially completed, the Purchaser shall purchase the Property in an "as built" condition rather than in accordance with any other representations herein contained.

#### NO ACCESS UNTIL CLOSING

30. 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

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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

31. 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

32. 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 of the Planning Act 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 ten (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

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- 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 or 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, c. L.5, 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.
33. 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 fifteen (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

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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

34. 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 and any amendments thereto, including without limitation Section 50 thereof, on or before the Occupancy Date.

#### MANNER OF PURCHASER'S TITLE

35. The Purchaser agrees to advise the Vendor or its solicitors within fifteen (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

36. 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

37. 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

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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

38. 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

39. 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, c. P.20, as amended, and/or the Substitute Decisions Act, 1992, S.O. 1992, c. 30, 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

40. 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

41. 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

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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 Ontario Electronic Commerce Act, 2000, S.O. 2000, c. 17, as amended, 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

42. 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 seven (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, 2000, S.O. 2000, c. 17, as amended;
- 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

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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

43. 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

44. 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

45. 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 or denied 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, c. P.20, as amended, and/or the Substitute Decisions Act, 1992, S.O. 1992, c. 30, 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

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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

46. 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 eighteen percent (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 fees (on a full indemnity basis) 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, c. P.20, as amended*, and/or the *Substitute Decisions Act, 1992, S.O. 1992, c. 30, 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.
47. 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.
48. In the event this Agreement is terminated through no fault of the Purchaser, all deposit monies paid by the Purchaser towards the Purchase Price, together with any interest required by law to be paid, shall be returned to the Purchaser; provided however, that the Vendor shall not be obligated to return any monies paid by the Purchaser as an Occupancy Fee or for optional upgrades, changes or extras ordered by the Purchaser, save and except as provided

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for in the ONHWPA, its regulations or the Addendum to the contrary. In addition, the Purchaser acknowledges that the Vendor shall not be liable for any damages, losses, liabilities or costs whatsoever incurred by the Purchaser resulting from the termination of this Agreement including, without limiting the generality of the foregoing, relocation costs, professional fees and disbursements, opportunity costs, loss of bargain, loss of future profit, or any other damages or costs incurred by the Purchaser, directly or indirectly. The Purchaser acknowledges and agrees that this provision may be pleaded by the Vendor as a complete defence to any claim which may be made by the Purchaser against the Vendor. It is understood and agreed by the parties that if construction of the Unit is not completed in accordance with the provisions of this Agreement on or before the Occupancy Date, or any extension thereof, the Vendor's responsibility shall only be limited to those delayed compensation costs, damages and expenses (if any) that the Purchaser may claim pursuant to the ONHWPA and/or the Addendum.

#### LIMITATION

49. 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

50. 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.

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**CONSTRUCTION LIENS**

51. 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 Act, R.S.O. 1990, c. C.30, 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 Act, R.S.O. 1990, c. C.30, 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**

52. 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**

53. 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**

54. 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**

55. 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, c. 5, 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 (I.e. with respect to Land Transfer Tax), and Canada Revenue Agency (I.e. 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

56. 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 five (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, c. F.3. as amended*, all within five (5) 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

57. The Purchaser acknowledges that the Vendor or the Vendor's 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

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

59. 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

60. 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

61. 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

62. 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

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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**

- 63. 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.



## Features &amp; Finishes

## Schedule 'A'

**ECO FRIENDLY FEATURES FROM OUR HARMONY PACKAGE**

- ④ 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
- ④ All bathrooms (with or without windows) have exhaust fan (EnergyStar® qualified) vented to the outside
- ④ Forced air natural gas condensing furnace, 96% ECM efficiency, with an ECM motor, power vented to the outside
- ④ Heat Recovery Ventilation Unit (H.R.V.) simplified system
- ④ EnergyStar® qualified condensing domestic hot water tank (rental unit)
- ④ All main trunk ducts, including basements for supply and return and panned joists to be taped, for added heating and cooling efficiency
- ④ Centrally located electronic EnergyStar® qualified thermostat on main floor
- ④ LED light bulbs where applicable to help conserve energy
- ④ Extensive caulking for improved energy conservation and draft prevention
- ④ The use of recycled material throughout the building process

**REFINED EXTERIOR FEATURES & STRUCTURAL COMPONENTS**

- Durable, maintenance free, pre-finished aluminum soffits, fascia, eavestrough and downspouts, all colour coordinated
- Prominent insulated entry door with door hardware package including grip-set and deadbolt, with glass insert to front entry door features (as per plan/elevations/ options) with complementing door sills 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)
- One (1) exterior hose bib provided in garage
- Sliding patio doors leading to rear (as per plan/elevations/option.)
- Pre-finished insulated roll-up garage door with decorative glazing and hardware

**CHEF INSPIRED 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
- Post formed kitchen countertops with your choice of colour from Vendor's standard samples
- Stainless steel finish, undermount sink in kitchen with faucet
- 6" Kitchen stove vent to be vented to outside

**PAMPERING BATHROOM FINISHES**

- Custom quality designed primary ensuite/bathroom cabinets with choice of styles from Vendor's standard samples (as per plan/options)
- Post formed countertop for primary ensuite/bathrooms with a clean-cut finish where the countertop meets the wall
- Single lever faucet(s) in all bathrooms
- White pedestal sink for all powder rooms
- ④ High efficiency water saving white toilets in all bathrooms
- Deep acrylic soaker tubs (as per plan/options)
- Ensuite retreats with glass showers
- ④ All bathroom tub & shower enclosures to receive "mold resistant drywall"

**LIGHTING & ELECTRICAL FEATURES**

- 100 amp electrical services with breakers (as per OBC Building Code)
- Weatherproof exterior electrical outlets, at each accessible exterior door
- 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

**EXQUISITE FLOOR COVERINGS**

- Tile flooring – locations as per applicable model layouts
- Laminate flooring – locations as per applicable model layouts
- 3 storey product features broadloom flooring with under pad in 3<sup>rd</sup> level hallway and all bedrooms from Vendor's standard samples

**LAUNDRY ROOM ACCENTS**

- All upper floor laundry closets/rooms to include a floor drain and tiled baseboards (as per plan/options)

**CONVENIENT ROUGH-INS FOR FUTURE CONNECTIVITY**

- Three (3) internet rough-in (CAD-5 Standard). Location to be determined by purchaser
- Rough-in Central vacuum system to all finished floors with pipes dropped to garage as determined by StateView Homes
- Alarm Rough-in only
- Municipal address plaques provided
- Professionally home cleaning service prior to occupancy
- Duct cleaning at time of occupancy

**ENTICING INTERIOR LIVING SPACES**

- Three storey product to have nine (9') ceilings heights on Ground & second floors and eight (8') ceilings heights on third floor
- All heights are approximate and subject 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
- Sunken 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 laundry room, powder room and all bathrooms, with sprayed stipple ceilings with 4" smooth border in all other areas
- White paint on all walls and white semi-gloss paint on doors and trim
- Elegant oak veneer stringers with carpeted stairs, landings and risers and 1 5/16" oak square spindles to finished areas with oak handrails (as per plan/options. Excludes basement stairs)
- Baseboards throughout with doorstop to hard surface flooring areas
- Casing on all doors and windows throughout finished areas
- Quality finished interior knobs on all interior doors with complementing hinges
- 6'8" doors, pocket doors, and French doors (as per plan/options)
- Thoughtful storage considerations with shelving installed (as per plan/options)

**COMFORT SMART HOME AUTOMATION**

- ④ One (1) smart central Automation Hub with touchscreen located at the front entrance of the home
- ④ One (1) smart door lock on the inside garage door leading to house (grade/options permitting)
- ④ One (1) smart lighting control
- ④ One (1) smart thermostat control
- ④ One (1) smart water leak sensor
- ④ One (1) pre-construction homeowner system design consultation
- ④ One (1) customer system training session
- ④ StateView Homes shall provide a personally scheduled appointment with our qualified Technical Contractor to explain and co-ordinate any additional technology requirements requested

**HASSLE FREE CUSTOM UPGRADES**

- 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)

**THE STATEVIEW HOMES GUARANTEE**

- Backed by "TARION" (Ontario New Home Warranty Program). StateView Homes, is a registered member of TARION and will 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 layouts.
- All features and finishes where Purchasers 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 final siting 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 Purchasers 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"
- Purchasers may be required to reselect colours and/or materials from the Vendor's samples as a result of unavailability or discontinuation.
- Due to grade, door from garage to house may not be available.
- Ceilings and walls may be modified to accommodate mechanical system.
- Purchaser acknowledges being advised that windows may 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 reserves the right to alter floorplans, exteriors, specifications and prices without notice. All renderings, floor plans and maps in brochures and sales displays are artists' concepts and are not necessarily to scale and dimensions/ square footages 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.
- If minor variations to 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 to the Purchase Price (5-10% total area allowance)

September 23, 2022

**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.



**SCHEDULE B**  
**Adjustments to Purchase Price or Balance Due on Closing**

**PART I      Stipulated Amounts/Adjustments**

1.      Refer to section 7(f) - \$1,000.00 fee to Vendor and \$500.00 fee to Vendor's lawyer for any NSF cheques issued by Purchaser
2.      Refer to section 7(h) - \$300.00 charge for discharge of Vendor's Lien
3.      Refer to section 7(i) – a refundable deposit in the amount of \$2,500.00 to secure Purchaser's obligations with respect to lot grading and related matters
4.      Refer to section 7(j) - \$600.00 fee for cost of a foundation survey
5.      Refer to section 7(l) – the cost of \$250.00 per month post-closing for each month the Purchaser fails to enter into any utility contract with the supplier and the Vendor is required to maintain such contract



**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.

1. Refer to section 7(a) – charges related to gas, water, electricity connections and meters and security deposits for related accounts
2. Refer to section 7(b) – costs for any adjustments related to fuel, water, taxes, local improvement charges to be paid for by Purchaser on closing
3. Refer to section 7(c) – Law Society of Ontario fee
4. Refer to section 7(d) – the Ontario New Home Warranties Plan Act enrollment fee
5. Refer to section 7(e) – the NHCLA regulatory fee
6. Refer to section 7(g) – the cost of any increase in levies, development charges and related charges after the date of this Agreement
7. Refer to section 7(k) – costs incurred by Vendor related to blue box recycling program to be reimbursed by Purchaser
8. Refer to section 7(m), (n) and (o) – Purchaser is required to enter into contracts with electricity, water and gas suppliers as their own costs
9. Refer to section 7(p) - reimburse the vendor for any costs related to subdivision esthetic enhancements imposed by approval authorities
10. Refer to section 8 – any taxes applicable to any adjustments
11. Refer to sections 9 – 14 – H.S.T. assignment and related costs
12. Refer to section 15 – any post-closing fees or payments related to interim occupancies
13. Refer to section 28 – cost of rental equipment, if any
14. Refer to section 46 – interest at a rate of 18% per annum on any default amounts



**SCHEDULE "C"**  
**TO THE AGREEMENT OF PURCHASE AND SALE OF STATEVIEW HOMES (ELM&CO) 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 the schedule in its sole 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 and/or Region 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 or delayed. The Purchaser shall be responsible for all utility, telephone expenses, internet, 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 or delayed. 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 H.S.T. 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 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.





**SCHEDULE "G"**  
**TO THE PURCHASE AGREEMENT OF STATEVIEW HOMES (ELM&CO) INC.**  
**ASSIGNMENT SCHEDULE**

1. The Vendor agrees that notwithstanding the terms and conditions of the agreement of purchase and sale (the "**Purchase Agreement**") to which this schedule is attached, the Purchaser shall be entitled to assign this agreement of purchase and sale (the "**Assignment**"), at the Vendor's sole and unfettered discretion, by contacting the Vendor at "assignments@stateviewhomes.com", provided the Purchaser pays the Vendor's fee in this regard in the amount of \$0.00, together with the Vendor's solicitor's legal fees of \$1,050.00 plus H.S.T., on the following terms and conditions:
  - a. the Purchaser shall only be entitled to exercise this right of Assignment once the Vendor has entered into final and binding agreements for not less than eighty-five percent (85%) of all of the residential dwellings in the Project and not after ninety (90) days prior to the Closing Date;
  - b. all deposits required to be paid pursuant to this Purchase Agreement as of the date of the Assignment have been paid in full, and this right of Assignment may only be exercised once by the original Purchaser, and such Purchaser shall remain liable under the Purchase Agreement until the assignee has completed the Purchase Agreement;
  - c. the Purchaser shall only be entitled to exercise this right of Assignment, provided that the Purchaser is not in default and has never committed any default under the Purchase Agreement;
  - d. the Purchaser shall not be entitled to list the Property for sale on the Multiple Listing Service, social media sites, electronic billboards or internet sales or advertising sites of any nature (i.e. Facebook Marketplace, Craigslist, Ebay, Kijiji, etc.), any brokerage website or personal website, any newspaper, flyer and/or media platform of any nature. Any breach of this covenant shall automatically result in the loss of the right of Assignment as provided for herein and shall constitute a default under the Purchase Agreement that is incapable being rectified by the Purchaser;
  - e. the party to whom this Purchase Agreement is being assigned (the "**Assignee**") provides evidence satisfactory to the Vendor (as determined by the Vendor in its sole and unfettered discretion) that the Assignee has the financial ability to complete the transaction contemplated by the Purchase Agreement; and,
  - f. the Purchaser and the Assignee enter into the Vendor's form of Assignment agreement (the "**Assignment Agreement**"), without amendment, which agreement shall, *inter alia*, provide:
    - i. all deposits theretofore paid by the Purchaser (the "**Deposits**") shall be assigned to the Assignee;
    - ii. the Purchaser releases all right and interest in the Property and the Deposits;
    - iii. the Assignee agrees that the monies and consideration paid to the Purchaser shall be included in the calculation of any Land Transfer Taxes eligible in respect of the Property;
    - iv. The Assignee shall acknowledge that the Canada Revenue Agency may determine that the Assignee may not qualify for the Rebate or Rebates, as applicable, due to the Assignment, and in such case, the Assignee shall pay the Vendor on closing, the amount equal to that portion of the Rebate or Rebates to which the Assignee may no longer qualify for, and as a result the Vendor shall be charging the Assignee of the Rebate amount, in addition to the Purchase Price, on the Unit Transfer Date;
    - v. the Vendor shall charge H.S.T. on the amount of any Assignment fee and/or increase in the Purchase Price as between the Assignee and the Assignor as well as the loss of any portion of the Rebate arising as a result of the Assignment;
    - vi. the Purchaser warrants that he or she has delivered, and the Assignee warrants that he or she has received one fully executed copy of the Purchase Agreement and all of the disclosure documents required to be delivered to a Purchaser pursuant to the Act;
    - vii. the Assignee and Assignor covenant and agree that, in consideration of the Vendor consenting to the Assignment, each waives any and all right to delayed occupancy compensation pursuant to the ONHWPA; and
    - viii. notwithstanding the Assignment of the Purchase Agreement, the Purchaser and/or Assignor shall not be relieved of its obligations under the Purchase Agreement, should the Assignee fail to complete the purchase of the Property.
2. In the alternative, the Vendor, in its sole discretion, may require that the Assignee under the Assignment Agreement enter into a new agreement, and the Assignment Agreement may take the form of a new purchase agreement with the replacement purchaser together with a conditional release of the original purchaser with the Vendor being entitled to the retain from the final Purchase Price payable by the new Purchaser the Vendor's fees as aforesaid, Assignment H.S.T. and an amount equal to any decrease in the H.S.T. Rebate arising as a result of the Purchase Price of the replacement purchaser increasing and thereby decreasing the available H.S.T. rebate before paying the original purchaser the difference between the Purchase Price under this agreement and the purchase price payable by the replacement purchaser.
3. Without limiting the foregoing, any such consent provided by the Vendor herein shall not extend to nor allow for or in any way be deemed to include any right of the Purchaser to conduct an 'open house' or similar showing of the Property or list for sale or advertise for sale the Property on any multiple listing service or similar type service, all of which are strictly prohibited. The Purchaser acknowledges and agrees that once a breach of the covenants contained herein occurs, such breach is or shall be incapable of rectification, and accordingly, the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement and the Occupancy Agreement, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default shall apply.

All other terms and conditions of the Purchase Agreement shall remain in full force and effect unless specifically amended herein.

Purchaser's Initials

Purchaser's Initials

DS  
 CT

Old Elm GO Station

Bethesda Side Road



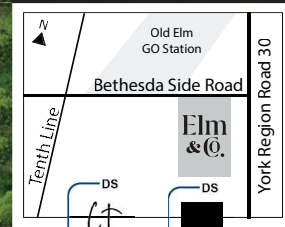
# Elm & Co.

### Legend

- Traditional Townhomes
- Stacked Townhomes
- Rear Lane Townhomes
- Back-to-Back Townhomes

STATE VIEW  
HOMES  
*Live Inspired*

### Stouffville



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

Property 132

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 (ELM&CO) INC.

Full Name(s)

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 22nd day of January, 2026.

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 22nd day of May, 2026.

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 21st day of September, 2026.

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 25th day of May, 2027.

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 24th day of October, 2025.

(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 20th day of February, 2026.

(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 24th day of June, 2027.

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 this November 5, 2022 | 10:14:50 AM EDT day of , 20.

VENDOR: DocuSigned by:

PURCHASER: [Redacted]

Handwritten signature: Carlo Taurasi

**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 (ELM&CO) INC.

Full Name(s) B61469	16 - 410 Chrislea Road		
HCRA Licence Number (905) 851-1849	Address Woodbridge	Ontario	L4L 8B5
Phone (905) 851-1841	City daniel@stateviewhomes.com	Province	Postal Code
Fax	Email*		

**PURCHASER** [REDACTED]

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

**PROPERTY DESCRIPTION**

12942 York Durham Line

Municipal Address Whitchurch-Stouffville	ON	
City Part of Part Lot 5, Concession 10, Whitchurch, Part 1, Town of Whitchurch-Stouffville	Province	Postal Code
Short Legal Description		

Number of Homes in the Freehold Project 206 (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: Relevant Municipal and Regional Confirmations

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 3 day of August, 2024.

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.

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**(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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**(Tentative Occupancy Date – POTL/CEC)**

**Condition #1 (if applicable)**

Description of the Early Termination Condition:

Site Plan Approval and/or development approvals have been obtained.

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

The date by which Condition #1 is to be satisfied is the 3 day of June, 20 24.**Condition #2 (if applicable)**

Description of the Early Termination Condition:

Satisfactory financing for the project has been obtained.

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

The date by which Condition #2 is to be satisfied is the 3 day of June, 20 24.

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



**Limited Use Freehold Form**  
**(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

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

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.

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

- (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.

**For more information please visit [www.tarion.com](http://www.tarion.com)**



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

**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.

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

**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.]**

1. Refer to section 7(f) - \$1,000.00 fee to Vendor and \$500.00 fee to Vendor's lawyer for any NSF cheques issued by Purchaser
2. Refer to section 7(h) - \$300.00 charge for discharge of Vendor's Lien
3. Refer to section 7(i) – a refundable deposit in the amount of \$2,500.00 to secure Purchaser's obligations with respect to lot grading and related matters
4. Refer to section 7(j) - \$600.00 fee for cost of a foundation survey
5. Refer to section 7(l) – the cost of \$250.00 per month post-closing for each month the Purchaser fails to enter into any utility contract with the supplier and the Vendor is required to maintain such contract

CT



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

**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.]**

1. Refer to section 7(a) – charges related to gas, water, electricity connections and meters and security deposits for related accounts
2. Refer to section 7(b) – costs for any adjustments related to fuel, water, taxes, local improvement charges to be paid for by Purchaser on closing
3. Refer to section 7(c) – Law Society of Ontario fee
4. Refer to section 7(d) – the Ontario New Home Warranties Plan Act enrollment fee
5. Refer to section 7(e) – the NHCLA regulatory fee
6. Refer to section 7(g) – the cost of any increase in levies, development charges and related charges after the date of this Agreement
7. Refer to section 7(k) – costs incurred by Vendor related to blue box recycling program to be reimbursed by Purchaser
8. Refer to section 7(m), (n) and (o) – Purchaser is required to enter into contracts with electricity, water and gas suppliers as their own costs
9. Refer to section 7(p) - reimburse the vendor for any costs related to subdivision esthetic enhancements imposed by approval authorities
10. Refer to section 8 – any taxes applicable to any adjustments
11. Refer to sections 9 – 14 – H.S.T. assignment and related costs
12. Refer to section 15 – any post-closing fees or payments related to interim occupancies
13. Refer to section 28 – cost of rental equipment, if any
14. Refer to section 46 – interest at a rate of 18% per annum on any default amounts

**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.





# 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://tarion.com) and log into our online learning hub at [www.tarion.com/learninghub](http://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](http://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.

### 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](http://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](mailto:customerservice@tarion.com).

**ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE DOCUMENTS  
AND ACCEPTED AGREEMENT OF PURCHASE AND SALE  
ELM&CO**

**TO: STATEVIEW HOMES (ELM&CO) INC.**

**RE: UNIT 132, LEVEL \_\_\_\_\_, SUITE \_\_\_\_\_, of the 206 common element townhouses to be constructed at the property now known as 12942 York Durham Line, Whitchurch-Stouffville, Ontario.**

The undersigned acknowledges that he/she/they has/have received the following documents from STATEVIEW HOMES (ELM&CO) INC. for the residential condominium marketed as "ELM & CO Collection" being developed on those lands and premises described as In the Town of Whitchurch-Stouffville in the Regional Municipality of York, being part of Part Lot 5, Concession 10, Whitchurch, Part 1, Plan 65R37148, comprising part of PIN 03707-0188, Land Registry Office for the Land Titles Division for York (No.65), municipally known as 12942 York Durham Line, Whitchurch-Stouffville, Ontario, namely:

1. the Disclosure Statement, including the Table of Contents;
2. the Proposed Condominium Declaration;
3. proposed By-law No. 1, being the general organizational by-law of the proposed Condominium;
4. proposed By-law No. 2, authorizing the proposed Condominium to grant the Permitted Party a licence to use the common elements for the purposes of marketing and selling the units in the Condominium and further authorizing the Condominium to assume any outstanding municipal agreements and to enter into a licence agreement to complete and fulfill all of the terms and conditions set out in any outstanding municipal agreements and to save and indemnify the Declarant harmless from and against all losses or damages sustained by the Declarant as a result of the Condominium not complying with such outstanding municipal agreements;
5. proposed By-law No. 3, setting out the procedure for any necessary mediation/arbitration of disputes;
6. proposed By-law No. 4, authorizing the proposed Condominium to enter into a limited recourse and indemnity agreement;
7. the proposed Property Management Agreement;
8. the proposed Budget outlining the common expenses for the first year of operation of the Condominium after registration;
9. proposed Schedule of Monthly Common Expenses;
10. the proposed rules of the Condominium;
11. ONE fully executed copy of the Agreement of Purchase and Sale for the above noted property being purchased, executed by the Purchaser on \_\_\_\_\_, 202\_\_ and accepted by the Vendor on \_\_\_\_\_, 202\_\_;
12. Taron Warranty Information Sheet; and
13. a copy of Ontario's Residential Buyer's Guide.

The Purchaser(s) acknowledge(s) and confirms that he and/or she has received documents 1 to 13 inclusive in the form of electronic copies of these documents via email or other electronic format on the date as set out below. The Purchaser(s) further acknowledge(s) and confirm(s) that the Vendor has advised the Purchaser(s) that all of the documents noted above are also available in paper format at any time, free of charge, upon the Purchaser's request for same. The Purchaser(s) understands the foregoing and hereby consents to receiving the Disclosure Documents and the accompanying documents in electronic format. The Purchaser(s) acknowledges and agrees that the 10 day rescission period as set out in Section 73(2) of the *Condominium Act, 1998, S.O. 1998, c. 19, as amended* will begin to run from and after the date noted below. Therefore the Purchaser(s) has until 11:59 pm on the tenth (10<sup>th</sup>) day from the date noted below to terminate or cancel the Agreement of Purchase and Sale, for any reason, and receive a return of his/her deposit.

DATED at \_\_\_\_\_, this \_\_\_\_\_ day \_\_\_\_\_, 202\_\_.

\_\_\_\_\_

Purchaser -  
(Print Name) \_\_\_\_\_

\_\_\_\_\_

Purchaser -  
(Print Name) \_\_\_\_\_



# Elm & Co.

## GOING FIRM BONUS PACKAGE\*

For a limited time only, receive the following inspired bonuses when you submit your completed Agreement of Purchase & Sale (APS)!

**\$5,000 Inspiration Gallery Credit**

**Upper Floor Laminate**

**Stone Kitchen Countertop**

**Stone Primary Ensuite Countertop**

**Electric Car Charger Conduit**

(Location at builder's discretion)

**3 Piece Stainless Steel Appliance Package**

(incl. Stove, Fridge & Dishwasher)

**Water Line Rough-in**

**Capped DCs (\$15,000)**

**Free Assignment (\$15,000 value)**



\*Limited time offer only. All above features are as per plan from the Builder's standard samples. Location of any of the above features are as per the builder's discretion. Bonus features and packages may be changed or cancelled without notice at the Vendor's sole discretion. Inspiration Gallery credits to be used towards the purchase of any upgrades, or extras at the time of colour selection from Vendor samples. Vendor will not refund any unused portion, if any, on the statement of adjustments at final closing. Inspiration Gallery credit includes HST. No cash value. Cannot be combined with any other offer. E.&O.E. Sept 27<sup>th</sup>, 2022.

# Elm & Co.

## FULL DEPOSIT BONUS PACKAGE\*

For a limited time only, receive the following when you submit your Full Deposit (within 30 Days) of execution of your Agreement of Purchase & Sale!

**10% of Deposit to be credited to Purchase Price on Final Closing\***

STATE VIEW  
HOMES  
*Live Inspired*

\*Limited time offer only. Bonus features and packages may be changed or cancelled without notice at the Vendor's sole discretion. Full Deposit includes HST. No cash value. E.&O.E. September 27<sup>th</sup>, 2022.

DS  
CT



**EXTENDED DEPOSIT STRUCTURE\***

Enjoy peace of mind with an extended deposit schedule up to 18 months!

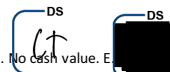
Townhomes	
Amount Due	Due Date
\$30,000	With offer
\$5,000	In 30 days
\$5,000	In 60 days
\$5,000	In 90 days
\$5,000	In 120 days
\$5,000	In 150 days
\$5,000	In 180 days
\$5,000	In 210 days
\$5,000	In 240 days
\$5,000	In 270 days
\$5,000	In 300 days
\$5,000	In 330 days
\$5,000	In 360 days
\$5,000	In 390 days
\$5,000	In 420 days
\$5,000	In 450 days
\$5,000	In 480 days
\$5,000	In 510 days
\$5,000	In 540 days
\$120,000 deposit total	

Back-to-Back Townhomes	
Amount Due	Due Date
\$30,000	With offer
\$5,000	In 30 days
\$5,000	In 60 days
\$5,000	In 90 days
\$5,000	In 120 days
\$5,000	In 150 days
\$5,000	In 180 days
\$5,000	In 210 days
\$5,000	In 240 days
\$5,000	In 270 days
\$5,000	In 300 days
\$5,000	In 330 days
\$5,000	In 360 days
\$5,000	In 390 days
\$5,000	In 420 days
\$100,000 deposit total	

\$5,000 administration fee will be added to the purchase price on final closing



\*Limited time offer only. See sales rep for full details. \$5,000 administration fee to be added to purchase price on final closing. No cash value. Expires October 4, 2022.



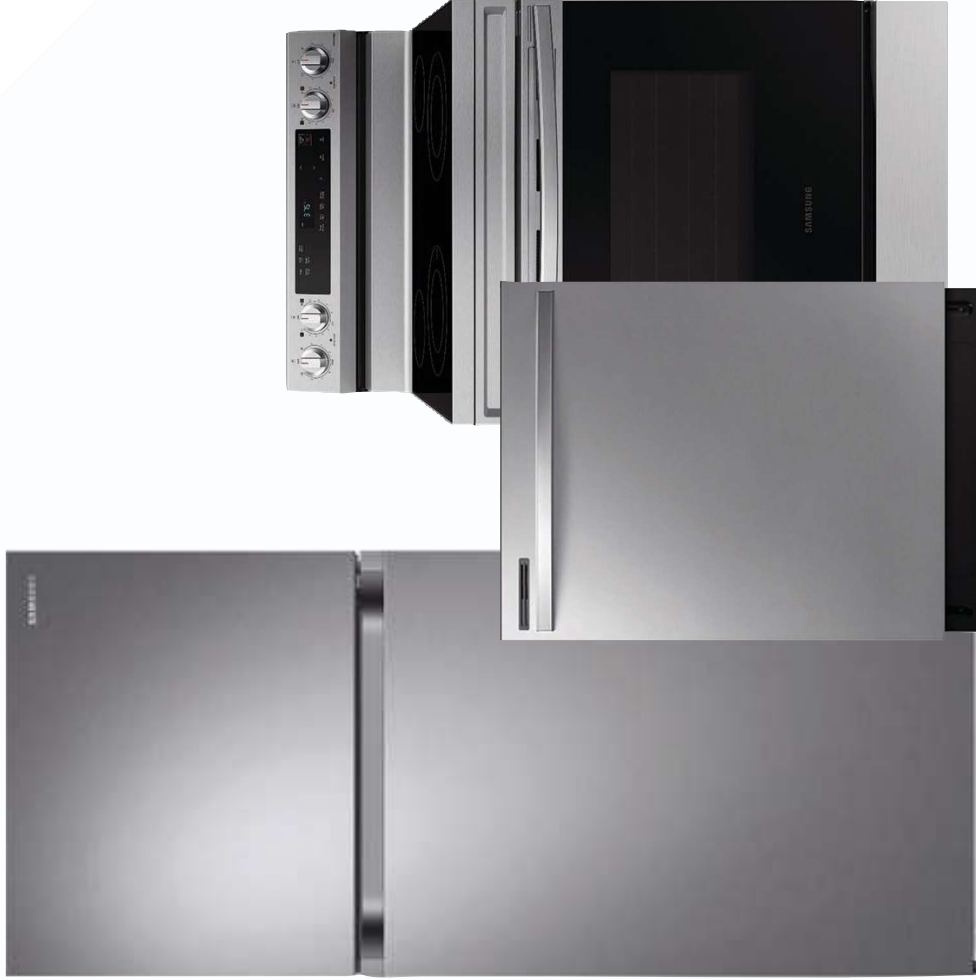


STATEVIEW  
— HOMES —

# CONGRATULATIONS!

## New Home owners Bad Boy Appliance Voucher

*This certificate entitles you to the appliances below supplied by Lastman's Bad Boy courtesy of Stateview Homes.*



**SAMSUNG**

30" Top Freezer Fridge  
RT18M64111SR

**SAMSUNG**

24" Built-in Dishwasher  
DW80R2031US

**SAMSUNG**

30" Freestanding Electric Range  
NE63A6111SS



# TERMS & CONDITIONS

- Standard and upgrade package appliances will be delivered and installed after the closing date. It is the Homeowner's responsibility to make arrangements directly with Bad Boy in setting up delivery and install dates. Stateview Homes will not be responsible for any issues with delivery (including the delivery to the required floor of the kitchen) or damages of the appliance installation.
- 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.
- Homeowners may upgrade appliances directly with Bad Boy. Any upgrades are to be paid directly to Bad Boy 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 Bad Boy.
- Certificate has no cash value and is non-transferable.
- Extended warranties will be offered on all packages as an upgrade option
- 1 year warranty is the standard manufacture
- Models and model number may change due to availability
- Once the standard package is delivered, exchanges or returns will not be permitted.

**HOMEOWNER ACKNOWLEDGES THAT THEY HAVE READ AND ACCEPT THE TERMS AND CONDITIONS. STANDARD PACKAGE INCLUDES STAINLESS STEEL REFRIGERATOR, RANGE & DISHWASHER.**

SITE: Elm & Co.

LOT # 132

CLOSING DATE: \_\_\_\_\_

AUTHORIZATION: \_\_\_\_\_  
 DATE: November 5, 2022 | 10:14:50 AM EDT  
 PER: Carlo Paulosi  
30E01E733F9B420...  
 WARRANTY FOR 1 YEAR FROM OCCUPANCY AS PER TARION GUIDELINES

STATEVIEW  
 HOMES  
*Live Inspired*



149

\*By Appointment Only!

### Contact Us:

Toronto | Lastma's Bad Boy  
 1255 Finch Avenue West,  
 Toronto, Ontario M3J 2G4

Josh Robins  
 Email: [josh@nooobody.com](mailto:josh@nooobody.com)





**EXTENDED DEPOSIT STRUCTURE\***


Enjoy peace of mind with an extended deposit schedule up to 18 months!

Townhomes	
Amount Due	Due Date
\$30,000	With offer
\$5,000	In 30 days
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\$5,000	In 360 days
\$5,000	In 390 days
\$5,000	In 420 days
\$100,000 deposit total	

\$5,000 administration fee will be added to the purchase price on final closing



DocuSigned by:  
  
 11/7/2022

\*Limited time offer only. See sales rep for full details. \$5,000 administration fee to be added to purchase price on final closing. No cash value. E.&O.E. October 4, 2022.

KINGSETT MORTGAGE CORPORATION et al.	STATEVIEW HOMES (MINU TOWNS) INC. et al.	Court File No. CV-23-00698395-00CL
DORR CAPITAL CORPORATION	HIGHVIEW BUILDING CORP INC.	CV-23-00698632-00CL
DORR CAPITAL CORPORATION	STATEVIEW HOMES (BEA TOWNS) INC.	CV-23-00698637-00CL
ATRIUM MORTGAGE INVESTMENT CORPORATION et al.	STATEVIEW HOMES (NAO TOWNS II) INC. et al.	CV-23-00698576-00CL
MERIDIAN CREDIT UNION	STATEVIEW HOMES (ELM&CO) INC.	CV-23-00699067-00CL
<b>Applicants</b>	<b>Respondents</b>	

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

Proceeding commenced at TORONTO

**AFFIDAVIT OF KEVIN BRODIE**

**Torys LLP**

79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2

**David Outerbridge** (LSO #: 42724V)

Tel: 416.865.7825

Email: [douterbridge@torys.com](mailto:douterbridge@torys.com)

**Adam M. Slavens** (LSO#: 54433J)

Tel: 416.865.7333

Email: [aslavens@torys.com](mailto:aslavens@torys.com)

**Jonathan Silver** (LSO#: 70137Q)

Tel: 416.865.8198

Email: [jsilver@torys.com](mailto:jsilver@torys.com)

**Mike Noel** (LSO#: 80130F)

Tel: 416.865.7378

Email: [mnoel@torys.com](mailto:mnoel@torys.com)

Lawyers for Tarion Warranty Corporation

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

Proceeding commenced at TORONTO

**MOTION RECORD**  
(Motion for Declaratory Relief)

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79 Wellington St. W., 30th Floor  
Box 270, TD South Tower  
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