

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD
DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS
(KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD.,
1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD.,
TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555
PRINCESS STREET) INC.**

**AND IN THE MATTER OF A MOTION PURSUANT TO 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**

**MOTION RECORD
(Returnable August 3, 2017)**

July 25, 2017

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TAB 1

**ONTARIO
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**IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD
DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS
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AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990, c. c. 43, AS AMENDED**

**NOTICE OF MOTION
(Returnable August 3, 2017)**

KSV Kofman Inc., in its capacity as Court-appointed receiver (in such capacity, the “Receiver”) of the real property (the “Real Property”) registered on title as being owned by Scollard Development Corporation (“Scollard”), Memory Care Investments (Kitchener) Ltd. (“Kitchener”), Memory Care Investments (Oakville) Ltd. (“Oakville”), 1703858 Ontario Inc. (“Burlington”), Legacy Lane Investments Ltd. (“Legacy Lane”), Textbook (555 Princess Street) Inc. (“555 Princess”) and Textbook (525 Princess Street) Inc. (“525 Princess” and, together with Scollard, Kitchener, Oakville, Burlington, Legacy Lane and 555 Princess, the “Companies”, and each a “Company”), and of all of the assets, undertakings and properties of the Companies acquired for or used in relation to the Real Property (together with the Real Property, the “Properties”) will make a motion to a judge presiding over the Ontario Superior Court of Justice

(Commercial List) (the “**Court**”) on August 3, 2017, 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 orally.

THE MOTION IS FOR:

1. An order (the “**Order**”) substantially in the form of the draft order attached as Tab “3” of this Motion Record, among other things,

- (a) approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver, as vendor, and Carterra Management Inc. (“**Carterra**”), as purchaser, dated June 20, 2017, as such agreement was assigned by Carterra to 1604 – 1614 Charles Street East LP, by its general partner, 1604 – 1614 Charles Street East GP Inc. (the “**Purchaser**”) (the agreement as assigned herein referred to as the “**Sale Agreement**”) and vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, all of the Receiver’s and the Debtor’s right, title and interest in and to the property described as the “**Purchased Assets**” in the Sale Agreement (the “**Purchased Assets**”);
- (b) deeming all of the Unit Purchase Agreements (as defined below) to be terminated immediately following completion of the Transaction;
- (c) authorizing and directing the Receiver to make the following distributions:
 - (i) to Downing Street Financial Inc., to repay all amounts owing to it;

- (ii) to Trisura Guarantee Insurance Company and Everest Insurance Company of Canada (jointly, the “**Sureties**”), to repay all amounts owing to them, including amounts that may become owing in the future;
 - (iii) to Leeswood Design Build Ltd. (“**Leeswood**”) and the IBI Group (“**IBI**”) in the amounts of \$13,011.08 and \$33,876.84, respectively, provided certain conditions are met; and
 - (iv) Grant Thornton Limited, in its capacity as Court-appointed trustee of Scollard Trustee Corporation in the proceedings bearing Court File No. CV-16-11567-00CL (in such capacity, the “**Trustee**”), in the approximate amount of \$5,100,000, as a partial distribution of amounts owing to Scollard Trustee Corporation;
- (d) Creating a \$1,000,000 reserve for the Sureties until the Tarion Bonds (as defined in the Order made in this proceeding on February 2, 2017 (the “**Receivership Order**”)) are returned to the Sureties for cancellation for any and all losses, damages, liabilities, costs and expenses incurred by the Sureties pursuant to the Tarion Bonds and the Indemnity Agreements (as defined in the Receivership Order); and
- (e) sealing the Confidential Appendices to the Seventh Report of the Receiver (the “**Seventh Report**”) pending completion of the Transaction.
2. Such further and other relief as counsel may request and the Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

1. On October 27, 2016, Grant Thornton Limited was appointed Trustee of eleven entities which raised monies from investors (“**Investors**”) through syndicated mortgage investments (collectively, the “**Trustee Corporations**”). Eight of the Trustee Corporations advanced the monies on a secured basis pursuant to loan agreements between the Trustee Corporation and the Companies and four other related entities (collectively, the “**Davies Developers**”).
2. Scollard purchased the Real Property in September, 2014, and intended to develop a project known as “Boathaus” on the Real Property. As part of its development efforts, Scollard pre-sold 214 units and collected approximately \$7.7 million in deposits (the “**Deposits**”), which are currently being held by Chaitons LLP.
3. KSV was appointed Receiver of the Property owned by Scollard pursuant to the Receivership Order made on February 2, 2017, and was appointed the Receiver of the Property owned by Kitchener, Oakville, Burlington, Legacy Lane, 555 Princess and 525 Princess pursuant to the Amended and Restated Receivership Order made on April 28, 2017.
4. The Investors have formed a committee to represent their interests in these proceedings (the “**Investor Committee**”). Chaitons LLP was appointed representative counsel to the Investors (“**Representative Counsel**”) pursuant to an Order of the Court dated January 24, 2017.

A. Strategic Process

5. On April 13, 2017, the Court made an order (the “**Strategic Process Order**”) approving a process to solicit offers for the development and/or sale of the Scollard Property (the “**Strategic**

Process") and approving the retention of TD Cornerstone Commercial Realty Inc. ("**TD**") as the listing agent for the Scollard Property.

6. The Strategic Process resulted in eight bidders submitting first round offers and four bidders submitting second round offers. A summary of the offers received in each round of bidding is provided in Confidential Appendix "1" to the Seventh Report (the "**Offer Summary**").

7. As part of the Strategic Process, the Receiver engaged in discussions with the Purchaser, which culminated in the Sale Agreement, which is subject to Court approval.

8. The proposed Approval and Vesting Order vests out the agreements of purchase and sale made between Scollard and third party purchasers with respect to the condominium units in the Boathaus project (collectively, the "**Unit Purchase Agreements**"), which were entered during a time when real estate prices were considerably lower. To maximize the value of the project, the Purchaser will need to sell the units at present market values.

9. The proposed Approval and Vesting Order deems the Unit Purchase Agreements to be terminated following completion of the Transaction. The Receiver is working closely with the Sureties and Tarion Warranty Corporation ("**Tarion**") to have the Deposits returned as soon as possible thereafter.

10. The Receiver recommends that the Court issue an order approving the Transaction and vesting title to the Purchased Assets in the Purchaser for the following reasons:

- (a) the Strategic Process was conducted in accordance with the Strategic Process Order;

- (b) the markets were widely and appropriately canvassed;
- (c) the Receiver, with the assistance of TD, engaged in extensive negotiations with respect to the leading bidders in the process;
- (d) TD is familiar with the local real estate market and is of the view that the Transaction is the best one available in these circumstances;
- (e) absent the Transaction, a protracted marketing period will continue to be necessary, and ongoing professional fees would erode the proceeds available for distribution with no certainty that a superior transaction could be completed;
- (f) the Receiver considered development opportunities; however, the net present value of the opportunities does not justify the increased risk and complexity of such a transaction; and
- (g) the Trustee, Representative Counsel, and the Scollard member of the Investor Committee have consented to the Transaction.

B. Sealing

11. The Receiver requests that the Offer Summary and the unredacted Sale Agreement be filed with the Court on a confidential basis and be sealed (the “**Sealing Order**”) as the documents contain confidential information.

12. If the Offer Summary and the unredacted Sale Agreement are not sealed, the information may negatively impact realizations on the Purchased Assets if the Transaction does not close.

13. The Receiver believes that the proposed Sealing Order is appropriate in the circumstances and is not aware of any party that will be prejudiced if the information is sealed.

C. Proposed Distributions

(a) Downing Street Facility

14. Pursuant to the Receivership Order, the Receiver was authorized to borrow \$3.5 million from Downing Street under a Receiver's Certificate (the "**Downing Street Facility**") and Downing Street was granted a charge on the Scollard Property, subject only to the Receiver's Charge, certain charges set out in the *Bankruptcy and Insolvency Act* ("**BIA**"), and any special priority lien under section 78 of the *Construction Lien Act* ("**CLA**") in favour of Leeswood (not to exceed \$58,000) that may be determined to exist by the Receiver.

15. The Receiver is seeking Court approval to make a distribution to repay the Downing Street Facility following the closing of the Transaction.

(b) The Sureties

16. The Sureties provided one or more bonds to Tarion in connection with certain liabilities that may accrue to Tarion from the proposed development of the Boathaus project, including any liabilities in respect of the Deposits, and the Sureties have a registered mortgage on title to the Property.

17. Pursuant to the Receivership Order, no party can purchase the Property without first making arrangements to repay any liability owed to the Sureties in respect of the Tarion Bonds.

18. The Receiver is seeking Court approval to make a distribution to repay the obligations owing to the Sureties following the closing of the Transaction, including any future amounts that may become owing to the Sureties.

19. In addition, Tarion has advised that prior to cancelling the Tarion Bonds, it will require, among other things, an executed mutual release agreement from each unit purchaser, and until the Tarion Bonds are returned to the Sureties for cancellation, the Sureties are requiring that \$1,000,000 be reserved to repay the Sureties for any and all losses, damages, liabilities, costs and expenses incurred by the Sureties pursuant to the Tarion Bond and the Indemnity Agreements (as defined in the Receivership Order). Accordingly, the proposed Order contemplates a \$1,000,000 reserve.

(c) Lien claimants

20. Leeswood has registered a construction lien claim against the Property and the Receiver's counsel believes that Leeswood has a priority claim in the amount of \$13,011.08. The Receiver's counsel has notified Leeswood's counsel of that determination, and proposes not to make any distribution to Leeswood until Leeswood's counsel confirms its agreement with that determination or until further order of the Court.

21. The Receiver is seeking Court approval to pay \$13,011.08 to Leeswood upon confirmation of Leeswood's counsel of such amount.

22. IBI has registered two construction lien claims against the Property and the Receiver's counsel believes that IBI has a priority claim in the amount of \$33,876.84 in total. The Receiver's counsel has notified IBI's counsel of that determination, and proposes not to make any distribution

to IBI until IBI's counsel confirms its agreement with that determination or until further order of the Court.

23. The Receiver is seeking Court approval to pay \$33,876.84 to IBI upon confirmation of IBI's counsel of such amount.

(d) The Trustee (on behalf of Scollard Trustee Corporation)

24. In addition to the \$1,000,000 in favour of the Sureties, the Receiver will maintain an additional reserve to fund the costs of an investigation into the Davies Developers' pre-receivership affairs, including the conduct of their principals. The investigation is addressed in the Receiver's First, Fourth and Sixth Reports. The Receiver is allocating costs of the investigation on an entity basis. Any costs incurred by Scollard for another Davies Developer will be reimbursed by the entity.

25. Scollard Trust Corporation raised monies from Investors through syndicated mortgage investments, and then entered into a loan agreement with Scollard for the full amount of the funds advanced by investors, secured by a mortgage over the Scollard Property. The Scollard Trustee Corporation's debt ranks behind the Downing Street Facility and the secured obligation owing to the Sureties.

26. As of the date of the receivership, Scollard's indebtedness to Scollard Trustee Corporation totaled approximately \$14.1 million; interest and costs continue to accrue on this debt.

27. The Receiver has obtained a legal opinion from its counsel on the validity and enforceability of the security of Scollard Trustee Corporation.

28. The Receiver intends to distribute all remaining funds to the Trustee on behalf of Scollard Trustee Corporation, other than a holdback for the reserves described herein and, if required, a holdback for the lien claimants. The Receiver estimates that the initial distribution to the Trustee will be approximately \$5.1 million.

29. The Receiver is also seeking Court approval to make further distributions to the Trustee from time to time up to the amount owing to Scollard Trustee Corporation.

30. Other than the Receiver's Charge, the Receiver is not aware of any claim that may rank in priority to the Downing Street Facility, the Sureties, the priority amounts for the lien claimants and Scollard Trustee Corporation.

D. General

31. The provisions of the BIA, as amended, the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, and the inherent and equitable jurisdiction of this Court.

32. Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990 Reg. 194, as amended.

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

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

1. the Seventh Report, filed; and
2. such further and other material as counsel may advise and this Court may permit.

July 25, 2017

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KSV Kofman Inc.

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AMD TEXTBOOK (555 PRINCESS STREET) INC.

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(Returnable August 3, 2017)**

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KSV Kofman Inc.

TAB 2



**Seventh Report of
KSV Kofman Inc.**

July 24, 2017

**as Receiver and Manager of Certain Property
of Scollard Development Corporation, Memory
Care Investments (Kitchener) Ltd., Memory
Care Investments (Oakville) Ltd., 1703858
Ontario Inc., Legacy Lane Investments Ltd.,
Textbook (525 Princess Street) Inc. and
Textbook (555 Princess Street) Inc.**

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COURT FILE NO: CV-17-11689-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

AND IN THE MATTER OF A MOTION PURSUANT TO 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

SEVENTH REPORT OF
KSV KOFMAN INC.
AS RECEIVER AND MANAGER

JULY 24, 2017

1.0 Introduction

1. This report ("Report") is filed by KSV Kofman Inc. ("KSV") as receiver and manager of the real property registered on title as being owned by Scollard Development Corporation ("Scollard"), Memory Care Investments (Kitchener) Ltd. ("Kitchener"), Memory Care Investments (Oakville) Ltd. ("Oakville"), 1703858 Ontario Inc. ("Burlington"), Legacy Lane Investments Ltd. ("Legacy Lane"), Textbook (555 Princess Street) Inc. ("555 Princess") and Textbook (525 Princess Street) Inc. ("525 Princess") (collectively the "Companies"), and of all of their assets, undertakings and properties acquired for or used in relation to their real property.
2. Pursuant to an order of the Ontario Superior Court of Justice ("Court") dated October 27, 2016, Grant Thornton Limited was appointed Trustee ("Trustee") of eleven entities¹ which raised monies from investors ("Investors") through syndicated mortgage investments (collectively, the "Trustee Corporations")². Eight of the Trustee Corporations then advanced these monies on a secured basis pursuant to loan agreements between the Trustee Corporation and the Companies and four other related entities (collectively, the "Davies Developers").

¹ Textbook Student Suites (525 Princess Street) Trustee Corporation, Textbook Student Suites (555 Princess Street) Trustee Corporation, Textbook Student Suites (Ross Park) Trustee Corporation, 2223947 Ontario Limited, MC Trustee (Kitchener) Ltd., Scollard Trustee Corporation, Textbook Student Suites (774 Bronson Avenue) Trustee Corporation, 7743718 Canada Inc., Keele Medical Trustee Corporation, Textbook Student Suites (445 Princess Street) Trustee Corporation and Hazelton 4070 Dixie Road Trustee Corporation

² Individuals who hold their mortgage investment in a Registered Retirement Savings Plan have a mortgage with Olympia Trust instead of the applicable Trustee Corporation.

3. On January 21, 2017, the Trustee brought a motion for an order (“Receivership Order”) appointing KSV as receiver and manager (“Receiver”) of the real property owned by Scollard (the “Real Property”), as well as all of the assets, undertakings and properties of Scollard acquired for or used in relation to the Real Property (together with the Real Property, the “Property”). On February 2, 2017, the Court made the Receivership Order.
4. On April 13, 2017, the Court made an order (the “Strategic Process Order”) approving a process to solicit offers for the development and/or sale of the Property (the “Strategic Process”).
5. On April 18, 2017, the Trustee brought a motion, *inter alia*, seeking an order amending and restating the Receivership Order to include the real property registered on title as being owned by Kitchener, Oakville, Burlington, Legacy Lane, 555 Princess and 525 Princess, as well as all the assets, undertakings and properties of these entities acquired for or used in relation to their real property (the “Amended and Restated Receivership Order”).
6. On April 28, 2017, the Court made the Amended and Restated Receivership Order. The Amended and Restated Receivership Order was further amended by a Court order on May 2, 2017 to address clerical errors.
7. The principal purpose of these proceedings is to, *inter alia*, complete transactions that maximize value for the Companies’ creditors.
8. The Receiver is also investigating transactions involving the Davies Developers, including the use by the Davies Developers of the monies advanced to them by Investors through the Trustee Corporations.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information regarding Scollard and these receivership proceedings;
 - b) summarize the results of the Strategic Process carried out by the Receiver;
 - c) summarize a transaction (the “Transaction”) with Cartera Management Inc. (the “Purchaser”) for the sale of the Purchased Assets (as defined below) pursuant to an Agreement of Purchase and Sale dated June 20, 2017 between the Receiver and the Purchaser (the “APS”);
 - d) set out the Receiver’s recommendation to make distributions (the “Distributions”) to:
 - i. Downing Street Financial Inc. (“Downing Street”) to repay funds borrowed from it under the Receiver’s Borrowings Charge (as defined in the Receivership Order);

- ii. Trisura Guarantee Insurance Company and Everest Insurance Company of Canada (jointly, the "Sureties") to repay obligations in connection with one or more bonds provided to Tarion Warranty Corporation ("Tarion") (the "Bond");
 - iii. two lien claimants, provided certain conditions are met; and
 - iv. the Trustee to repay a portion of the amounts owing to Scollard Trustee Corporation ("STC") regarding Investor funds advanced to Scollard; and
- e) recommend that the Court issue an order, *inter alia*:
- i. approving the Transaction;
 - ii. vesting title in and to the Purchased Assets in the Purchaser or its assignee³, free and clear of all liens, claims and encumbrances, except the Permitted Encumbrances (as defined in the APS) upon filing of a certificate confirming, among other things, completion of the Transaction;
 - iii. deeming the Unit Purchase Agreements (as defined below) to be terminated by the Receiver following the completion of the Transaction;
 - iv. authorizing and directing the Receiver to make the Distributions following the completion of the Transaction;
 - v. authorizing the Receiver to make further distributions to the Trustee from time-to-time up to the amount owing to STC;
 - vi. requiring the Receiver to hold a reserve for the Sureties until the Bond is returned to the Sureties for cancellation; and
 - vii. sealing the confidential appendices to this Report pending the completion of the Transaction.

1.2 Currency

1. All currency references in this Report are in Canadian dollars.

2.0 Background

1. The Davies Developers are developers of student residences, accommodations for people suffering from various forms of cognitive impairment, and low-rise condominiums. All but one of the Davies Developers' projects are in pre-construction⁴ (collectively the "Projects").

³ On July 5, 2017, the Purchaser's counsel notified the Receiver's counsel that the Purchaser will be assigning the APS to 1604 – 1614 Charles Street East LP, by its general partner, 1604 – 1614 Charles Street East GP Inc., in accordance with section 16.10 of the APS.

⁴ Footings and foundations have been laid down at the Project owned by Burlington.

2. The amounts borrowed by the Davies Developers total approximately \$119.940 million⁵, including approximately \$93.675 million in secured debt owing to the Trustee Corporations (being monies raised by the Trustee Corporations from Investors) and \$23.675 million owing to other mortgage lenders (the "Other Lenders"). The Receiver understands that all of the obligations owing to Other Lenders rank in priority to the Trustee Corporations.
3. The funds advanced from the Trustee Corporations to the Davies Developers were to be used to purchase real property and to pay soft costs associated with the development of the Projects.

2.1 Scollard

1. Scollard purchased the Real Property in September, 2014. The Real Property is located in Whitby, Ontario and is undeveloped except for a sales center located on the Real Property.
2. Scollard intended to develop a project known as "Boathaus" on the Real Property. Boathaus is presently conceived by Scollard to be a five-story condominium consisting of 291 residential units. Scollard was considering adding a sixth story with an additional 74 residential units. As part of its development efforts, Scollard pre-sold 214 units and collected approximately \$7.7 million in deposits (the "Deposits"). Chaitons LLP ("Chaitons") is holding the Deposits. They are not being used by the Receiver to fund these proceedings or for any other purpose.
3. In connection with the Project, Scollard arranged for the Sureties to issue the Bond to Tarion to secure Tarion's obligations to purchasers of condominium units in the Project. As collateral for its obligations under the Bond, the Sureties were granted a mortgage (the "Surety Mortgage") in the amount of \$11 million on the Real Property.
4. John Davies is the sole director and officer of Scollard. The shareholders of Scollard are Aeolian Investments Ltd. ("Aeolian") (50%) and Erika Harris (50%). Aeolian is owned by Mr. Davies' wife and children. Ms. Harris is the mother of Greg Harris, a partner at Harris & Harris LLP, legal counsel to the Davies Developers.

2.2 Investors Committee and Representative Counsel

1. The Investors have formed a committee to represent their interests in these proceedings (the "Investor Committee"). Each member of the Investor Committee represents a different Project. Scollard's representative has been kept apprised of the Strategic Process at a high level during these proceedings.
2. On January 24, 2017, the Court made an order appointing Chaitons LLP as representative counsel to the Investors ("Representative Counsel").

⁵ Represents the principal amounts owed, excluding interest and fees.

3.0 Strategic Process

3.1 Strategic Process Overview

1. In January, 2017, prior to the commencement of the receivership proceedings, Scollard engaged Wynn Realty Corporation (“Wynn”) to market the Property. Prior to the approval and commencement of the Strategic Process, the Receiver considered two offers presented by Wynn, neither of which was solicited by the Receiver. Neither offer culminated in a transaction. Further details concerning these offers are provided in the Receiver’s First Report to Court dated April 5, 2017 (the “First Report”). A copy of the First Report is attached as Appendix “A”, without appendices.
2. The Strategic Process Order (attached as Appendix “B”) approved the retention of TD Cornerstone Commercial Realty Inc. (“TD”) as the listing agent for the Scollard Property.
3. A summary of the Strategic Process is as follows:

Pre-marketing Phase

- a) Immediately following the making of the Strategic Process Order, the Receiver and TD assembled information to be used for due diligence purposes;
- b) TD and/or the Receiver worked together to prepare:
 - an investment summary detailing the acquisition opportunity (the “Investment Summary”);
 - a confidentiality agreement (“CA”);
 - a data room, which contained, *inter alia*, various reports concerning the development (such as environmental reports), a summary of Scollard’s development plan and marketing materials for the Boathaus development;
 - a form of asset purchase agreement which the Receiver recommended interested parties should use when submitting an offer - a copy of this document was made available in the data room; and
 - a Confidential Information Memorandum (“CIM”), which included a summary of the Property and details concerning the Strategic Process.

Marketing Phase

- a) On April 25, 2017, TD sent the Investment Summary to over 1,600 parties in its database, including builders and developers in the Greater Toronto Area, as well as parties that had contacted the Receiver prior to the commencement of the Strategic Process, several of which were already familiar with the Property and the development as a result of the prior efforts of Wynn and Scollard’s management;

- b) The CA was attached to the Investment Summary. Interested parties were required to sign the CA in order to obtain a copy of the CIM and access to the data room;
- c) On April 28, 2017, a listing was posted on Toronto Real Estate Board Multiple Listing Services (“MLS”);
- d) Interested parties were encouraged to submit purchase and/or development offers;
- e) The Real Property was advertised in the following publications:
 - on May 2 and 4, 2017, in the national edition of *The Globe and Mail* newspaper; and
 - on May 3 and 5, 2017, in the Toronto Edition of *Novae Res Urbis*, a Greater Toronto Area newspaper focused on urban planning;
- f) In order to facilitate the comparison of offers received and to reduce the cost of reviewing and potentially negotiating various forms of offers, prospective purchasers were encouraged to submit their offers in the form of the asset purchase agreement provided in the data room, and to blackline any changes made to that agreement; and
- g) The initial deadline to submit offers was May 25, 2017 at 5:00 p.m. (Toronto time) (“Initial Offer Deadline”).

3.2 Sale Process Results

1. A summary of the results of the Strategic Process is as follows:
 - 44 parties executed the CA, were provided a copy of the CIM and given access to the data room; and
 - eight parties submitted offers.
2. The Receiver invited the five parties with the best offers to participate in a second round of bidding. Second round bids were due on or before June 2, 2017 (the “Second Round Deadline”). In order to participate in the second round, bidders were required to, among other things, provide: (i) a deposit equal to 15% of their purchase price; (ii) details of their financing for the project; and (iii) their experience with projects of a scale similar to Boathaus. Four bidders submitted second round offers; the bidder which submitted the highest bid in the initial round (which was conditional on further diligence) did not submit a further bid.
3. A summary of the offers received in each round of bidding is provided in Confidential Appendix “1” (the “Offer Summary”). The Receiver’s rationale for requesting that the Offer Summary be sealed is provided in Section 4.2 below.

4. One party that submitted an offer to purchase the Property, also submitted: (i) a development proposal; and (ii) a hybrid development proposal which included upfront cash proceeds and a vendor-take-back mortgage which would be postponed to construction financing. The Receiver considered and valued these options and determined that they are riskier than the Transaction, being an outright purchase, because, among other things, repayment to stakeholders is contingent on the project's profitability, which had to be risk rated and present valued. In this regard, the Receiver, with the assistance of TD, performed a net present value analysis and determined that the potential proceeds from the other opportunities did not justify the additional risk and complexity involved with those transactions, including ongoing professional fees associated with monitoring the development. A summary of these proposals is included in the Offer Summary.
5. The Receiver received one offer in the second round with a higher purchase price than the Transaction. That offer had several problems, including:
 - no deposit was provided. The bidder advised that it was prepared to provide a deposit of \$400,000, comprised of \$200,000 upon acceptance of the offer and an additional \$200,000 following the waiver of a twenty-day diligence condition⁶;
 - the bidder does not have experience on projects of a scale similar to Boathaus;
 - the bidder did not, and would not, despite multiple requests, provide any evidence that financing is immediately available nor that it would be available; and
 - the contemplated closing date is approximately six months from the offer date. If the bidder failed to complete the transaction, the Receiver's only recourse would (potentially) be to the bidder's apparently forthcoming deposit, which is not material in comparison.

Attached as Appendix "C" is a memorandum from TD summarizing its dialogue with this bidder.

6. After consulting with TD, the Trustee and Representative Counsel, the Receiver determined that there was too much risk accepting this higher offer in light of the strong likelihood that the Receiver could close a transaction with either the Purchaser or with the party that it believed submitted the second-best offer; the second best offer is from a real estate developer with the financial wherewithal to complete a transaction.
7. Accordingly, the Receiver engaged in discussions with the Purchaser, which culminated in the APS. The APS was executed on June 20, 2017, and is subject only to Court approval.

⁶ In subsequent negotiations with TD, the bidder agreed to reduce its diligence period to ten days.

4.0 Transaction⁷

1. A summary of the Transaction is as follows:
 - **Purchaser:** Carttera Management Inc.
 - **Purchased Assets:** all of the Receiver's and Scollard's right, title and interest in the following:
 - (i) prepaid expenses and all deposits with any Person, Public Utility or Governmental Authority relating to the Real Property;
 - (ii) the Real Property;
 - (iii) the Permits in connection with the Real Property, to the extent transferable; and
 - (iv) all intellectual property owned by Scollard with respect to the Project;
 - **Purchase Price:** the Receiver recommends that the Purchase Price be sealed. The Purchase Price is to be adjusted on closing for property taxes and other adjustments standard for a real estate transaction;
 - **Deposit:** the Purchaser has paid a deposit representing 15% of the purchase price;
 - **Excluded Assets:** comprised of: (i) books and records that do not exclusively or primarily relate to the Purchased Assets; (ii) tax refunds; (iii) all contracts entered into by Scollard; and (iv) agreements of purchase and sale made between Scollard and third party purchasers with respect to condominium units in the Boathaus Project (collectively, the "Unit Purchase Agreements"), including related Deposits;
 - **Representation and Warranties:** consistent with the standard terms of an insolvency transaction, i.e. on an "as is, where is" basis, with limited representations and warranties;
 - **Closing:** two business days after receipt of the Approval and Vesting Order. The APS included a 10 business day diligence period, which has now been waived;
 - **Other Material Conditions include:**
 - (i) there shall be no order issued by a Governmental Authority against either Scollard or the Purchaser or involving the Purchased Assets that prevents completion of the Transaction;

⁷ Terms not defined in this section have the meaning provided to them in the APS.

- (ii) there shall be no new work orders or similar orders and no new Encumbrances registered on title to the Real Property or affecting title to the Real Property arising or registered after the date of the APS, which cannot be vested out pursuant to an Approval and Vesting Order;
 - (iii) there shall be no new environmental issue that causes a material adverse effect on the Real Property and there should not be any other material adverse change to the condition or operation of the Real Property; and
 - (iv) the Court shall have issued an Approval and Vesting Order.
- **Termination:** in addition to the requirement for the Purchaser to waive its diligence condition (which has occurred), the APS can also be terminated:
 - (i) upon mutual written agreement of the Receiver and the Purchaser;
 - (ii) if any of the conditions in favour of the Purchaser or Receiver are not waived or satisfied; and
 - (iii) if prior to closing: (a) the Purchased Assets are substantially damaged or destroyed. Substantial damage is deemed to have occurred if the loss or damage to the Purchased Assets exceeds 15% of the Purchase Price; or b) all or a material part of the Real Property is expropriated by a Governmental Authority.
2. A redacted version of the APS is attached as Appendix "D". An unredacted version of the APS is provided in Confidential Appendix "2".

4.1 Unit Purchase Agreements

1. All but one offer submitted in the first round required that title be vested in the purchaser free and clear of the Unit Purchase Agreements⁸. The proposed Approval and Vesting Order vests out the Unit Purchase Agreements. Many of the Unit Purchase Agreements were entered during 2015, at which time real estate prices were considerably lower than they are presently. To maximize the value of the project, a purchaser will need to sell the units at present market values.
2. The form of the agreements of purchase and sale between Scollard and the purchasers of the Boathaus condominium units are standard form agreements. A redacted copy of the form of agreement is attached as Appendix "E".

⁸ In the second round, the bidder which contemplated that it would assume the Unit Purchase Agreements advised that it may prefer to vest them out.

3. Certain relevant provisions of the form of agreement include:⁹
 20. *the Purchaser acknowledges this Agreement confers a personal right only and not any interest in the Unit or property...*
 27. *the Purchaser agrees that this Agreement shall be subordinate to and postponed to any mortgages arranged or to be arranged by the Vendor and any advances thereunder from time to time ...*
4. As part of the Approval and Vesting Order, the Receiver is seeking to have the Unit Purchase Agreements deemed to be terminated. The Receiver will then work with Tarion and the Sureties to have the Deposits returned to the unit purchasers as soon as possible. However, prior to the Deposit of each unit purchaser being returned, the Sureties and Tarion have advised that they require the unit purchaser to execute a mutual release and termination agreement ("Mutual Release Agreement"). Accordingly, immediately following the closing of the Transaction, each unit purchaser will be contacted by email (if available) or mail and asked to execute the Mutual Release Agreement.
5. The Receiver considered whether interest is payable on the deposits to be refunded to the purchasers of the condominium units. Pursuant to subsection 82(7) of the *Condominium Act* and the rate of interest prescribed under the applicable regulation, interest is payable at 2% per annum below the bank rate established by the Bank of Canada. The "Bank Rate", as that term is used by the Bank of Canada, refers to the minimum rate at which the Bank of Canada makes short-term advances to members of the Canadian Payments Association. According to the Bank of Canada, Data and Statistics Office, since January 2013, the Bank Rate has consistently stayed below 2% per annum. Therefore, the condominium purchasers, all of whom entered into Unit Purchase Agreements later than January, 2013, are not entitled to any interest on their deposits.
6. The Receiver intends to notify each of the unit purchasers about this motion by email (if available) or by mail. The Receiver has had several discussions with purchasers concerning the return of their Deposits. To date, no unit purchaser has raised objections with the Receiver with respect to the possibility of the Unit Purchase Agreements being terminated and the Deposits being returned.

4.2 Confidentiality

1. The Receiver respectfully requests that the Offer Summary and the unredacted APS be filed with the Court on a confidential basis and be sealed ("Sealing Order") as the documents contain confidential information. If the terms of the APS and the Offer Summary are not sealed, the information may negatively impact realizations on the Purchased Assets in the event that the Transaction does not close. The Receiver is not aware of any party that will be prejudiced if the information is sealed. Accordingly, the Receiver believes the proposed Sealing Order is appropriate in the circumstances.

⁹ The paragraph numbers correlate to the paragraphs in the form of agreement.

4.3 Recommendation

1. For the following reasons, the Receiver recommends that the Court issue an order approving the Transaction and vesting title to the Purchased Assets in the Purchaser:
 - a) the Strategic Process was conducted in accordance with the Strategic Process Order;
 - b) the market was widely canvassed using several marketing techniques, including direct solicitation of prospective purchasers by TD, newspaper advertisements in national and local publications, and listing the property on MLS. TD also introduced this opportunity to its list of contacts interested in real estate in the GTA;
 - c) the Receiver, with the assistance of TD, engaged in extensive negotiations with the bidders in the process;
 - d) TD is familiar with the local real estate market and is of the view that the Transaction is the best one available in these circumstances;
 - e) absent the Transaction, a protracted marketing period will continue to be necessary. The ongoing professional fees would erode the proceeds available for distribution with no certainty that a superior transaction could be completed;
 - f) the Receiver considered development opportunities; however, the net present value of those opportunities did not justify the increased cost, risk and complexity of such a transaction; and
 - g) the Trustee, Representative Counsel, and the Scollard member of the Investor Committee have consented to the Transaction.
2. Based on the foregoing, the Receiver recommends that this Court approve the Transaction.

5.0 Distribution

5.1 Secured Creditors

5.1.1 Downing Street Financial Inc.

1. Pursuant to the Receivership Order, the Receiver was authorized to borrow \$3.5 million from Downing Street under a Receiver's Certificate (the "Downing Street Facility"). Downing Street was granted a charge on the Property, subject only to the Receiver's Charge, certain charges set out in the *Bankruptcy and Insolvency Act*, and any special priority lien under section 78 of the *Construction Lien Act* in favour of Leeswood Design Build Ltd. ("Leeswood") (not to exceed \$58,000) that may be determined to exist by the Receiver. Pursuant to the Receivership Order, if the lien is determined to exist by the Receiver, the Receiver must discharge the lien from the proceeds (not to exceed \$58,000) generated from the Property.

2. The Downing Street Facility was used to repay a mortgage in the amount of approximately \$2.5 million owing to Firm Capital Mortgage Corporation with the balance used to fund the costs of these proceedings. The Receiver has approximately \$332,000 remaining from the Downing Street Facility in its receivership bank account.

5.1.2 Sureties

1. The Receiver has been advised that \$135,738 was owed to the Sureties as at July 7, 2017, in connection with the Sureties' Mortgage, mainly comprised of legal fees and unpaid premiums in connection with the Bonds. Pursuant to the Receivership Order, no party can purchase the Property without first making arrangements to repay any liability owed to the Sureties in respect of the Bonds.
2. Tarion has advised that prior to cancelling the Bonds, it will require, among other things, an executed Mutual Release Agreement from each unit purchaser and, until the Bonds are returned to the Sureties, \$1 million to be reserved to repay the Sureties for any and all losses, damages, liabilities, costs and expenses incurred by the Sureties pursuant to the Bonds and the Indemnity Agreements (as defined in the Amended and Restated Receivership Order) (the "Surety Reserve"). Accordingly, the proposed order contemplates the Surety Reserve.

5.1.3 Scollard Trustee Corporation

1. STC raised monies from Investors through syndicated mortgage investments. STC then entered into a loan agreement with Scollard for the full amount of the funds advanced by investors, secured by a mortgage over the Property. The STC debt ranks behind the Downing Street Facility and the secured obligation owing to the Sureties.
2. As of the date of the receivership, Scollard's indebtedness to STC totalled approximately \$14.1 million; interest and costs continue to accrue on this debt.
3. At the request of the Receiver, Bennett Jones LLP ("Bennett Jones"), the Receiver's legal counsel, provided an opinion to the Receiver on the validity and enforceability of the security of STC. Bennett Jones is of the opinion, subject to the usual qualifications and assumptions, that STC holds a valid and perfected security interest in Scollard's business and assets as set out in its security documents, and that STC's mortgage with respect to the Real Property constitutes a valid and enforceable charge. A copy of the security opinion will be made available to the Court should it wish to review it.

5.1.4 Liens

1. According to the Land Titles Office (Toronto), three liens totalling \$807,647 have been registered on title against the Real Property pursuant to the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended.

2. Leeswood has registered a construction lien claim against the Property in the amount of \$130,110.84. The Receiver's counsel has reviewed the claim, and believes that Leeswood has a priority claim in the amount of \$13,011.08. The Receiver's counsel has notified Leeswood's counsel of that, and proposes not to make any distribution to Leeswood until Leeswood's counsel confirms its agreement with that determination or until further order of the Court. As referred to above, Leeswood argued at the application for the Receivership Order that it is entitled to a priority claim of \$58,000, which the Receiver understands represents approximately 10% of the value of Leeswood's contract as opposed to 10% of its outstanding invoices.
3. The IBI Group¹⁰ has registered two construction lien claims against the Property, but they are for the same amount - \$338,768.42¹¹. The two claims appear to be in respect of the same contract, and the only difference between the two claims appears to be the name of the lien claimants, with the second claim listing all members of the IBI Group. Accordingly, the Receiver is treating the two claims as one. The Receiver's counsel has reviewed the claim, and believes that the IBI Group has a priority claim in the amount of \$33,876.84. The Receiver's counsel has notified IBI Group's counsel of that, and proposes not to make any distribution to the IBI Group until IBI Group's counsel confirms its agreement with that determination or until further order of the Court.

5.2 Proposed Distribution

1. In addition to the Surety Reserve, the Receiver is maintaining a reserve to fund the costs of an investigation into the Davies Developers' pre-receivership affairs (the "Cost Reserve" and together with the Surety Reserve, the "Reserves"). The investigation is addressed in the Receiver's First, Fourth and Sixth Reports, which are available on its website. The Receiver is allocating costs of the investigation on an entity basis. Any costs incurred by Scollard for another Davies Developer will be reimbursed by the entity.
2. The Receiver is seeking Court approval to make the following distributions upon closing of the Transaction:
 - a) repay in full the Downing Street Facility;
 - b) repay in full the obligations owing to the Sureties, including further amounts that may become owing;
 - c) pay \$13,011.08 to Leeswood and \$33,768.42 to IBI Group upon their confirmation that they concur with the Receiver's view in this regard. In the alternative, the Receiver intends to holdback for the full amount of their claims; and

¹⁰ The "IBI Group" is comprised of Young & Wright / IBI Group Architects, IBI Group Architects (Canada) Inc. and IBI Group Professional Services (Canada) Inc.

¹¹ Note that in its statement of claim, IBI Group is also claiming \$6,815.60 in respect of a landscaping contract, but there does not appear to be a lien claim asserted in respect of that amount.

- d) repay a portion of STC's debt. The Receiver intends to distribute all remaining funds to STC, other than a holdback for the Reserves and, if required, a holdback for the lien claimants. The Receiver estimates that the initial distribution to STC will be approximately \$5.1 million.
3. The Receiver is also seeking Court approval to make further distributions to the Trustee from time to time up to the amount owing to STC.
4. Other than the Receiver's Charge, the Receiver is not aware of any claim that may rank in priority to the Downing Street Facility, the Sureties, the priority amounts for the lien claimants described above and STC.

6.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that this Court make an Order granting the relief detailed in Section 1.1 (1)(e) of this Report.

* * *

All of which is respectfully submitted,

KSV Kofman Inc

**KSV KOFMAN INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
CERTAIN PROPERTY OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE
INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD.,
1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS
STREET) INC., AND TEXTBOOK (555 PRINCESS STREET) INC.
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

TAB A



**First Report of
KSV Kofman Inc.
as Receiver and Manager of
Certain Property of
Scollard Development Corporation**

April 5, 2017

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COURT FILE NO: CV-17-11689-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT
CORPORATION

AND IN THE MATTER OF A MOTION PURSUANT TO 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 KOFMAN INC.
AS RECEIVER AND MANAGER

APRIL 5, 2017

1.0 Introduction

1. This report ("Report") is filed by KSV Kofman Inc. ("KSV") as receiver and manager of the real property ("Real Property") registered on title as being owned by Scollard Development Corporation (the "Company"), and of all of the assets, undertakings and properties of the Company acquired for or used in relation to the Real Property (together with the Real Property, the "Property").
2. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on February 2, 2017 (the "Receivership Order"), KSV was appointed as the receiver and manager ("Receiver") of the Property.
3. The principal purpose of these proceedings is to complete a transaction that maximizes value for the Company's creditors.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Company;
 - b) summarize the recommended marketing process to solicit offers for the development and/or sale of the Property (the "Strategic Process"), including the retention of TD Comerstone Commercial Realty Inc. ("TD") to act as listing agent for the Property;

- c) provide the Receiver's preliminary findings concerning its review of the Company's receipts and disbursements for the period April 1, 2014, the date the Company appeared to have opened its bank account, to February 2, 2017, the date of the Receivership Order; and
- d) recommend that the Court issue an order, among other things:
 - approving the Strategic Process, including the retention of TD as the listing agent;
 - approving the activities of the Receiver as described in this Report; and
 - sealing the confidential appendices until further order of this Court.

1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon unaudited financial information of the Company and discussions with the Company's accountant, SourcePoint Business Group Inc., and the Company's legal counsel, Harris & Harris LLP ("Harris"). The Receiver has not performed an audit or other verification of such information. The financial information discussed herein is preliminary and remains subject to further review, including the information discussed in Section 5 below. The Receiver expresses no opinion or other form of assurance with respect to the financial information presented in this Report.

2.0 Background

1. The Company purchased the Real Property in September, 2014. The Real Property is located in Whitby, Ontario and comprises approximately three acres.
2. The Company intended to develop a project known as "Boathaus" on the Real Property. Boathaus is presently intended to be a five-story condominium consisting of 291 residential units. The Company was considering adding a sixth story with an additional 74 residential units. As part of its development efforts, the Company pre-sold 214 units and collected approximately \$8 million in deposits. The deposits are being held by Chaitons LLP and are not being used by the Receiver to fund these proceedings or for any other purpose.
3. The only structure on the Real Property is a single storey 7,500 square foot commercial building that was renovated by the Company so that it could be used as the project sales centre.
4. John Davies is the sole director and officer of the Company. The Receiver understands that the Company's shareholders are Aeolian Investments Ltd. ("Aeolian") (50%) and Erika Harris (50%). The Receiver understands that Aeolian is owned by Mr. Davies' wife and children¹. Ms. Harris is the mother of Greg Harris, a partner at Harris.

¹ This information is sourced from the Affidavit of John Davies sworn December 6, 2016 in support of the Company's and certain related entities' application for protection under the *Companies' Creditors Arrangement Act*.

2.1 Creditors

2.1.1 Downing Street Financial Inc.

1. Pursuant to the Receivership Order, the Receiver was authorized to borrow \$3.5 million from Downing Street Financial Inc. ("Downing Street") under a Receiver's Certificate (the "Downing Street Facility"). Downing Street was granted a charge on the Property (other than the deposits). At the commencement of the receivership, Downing Street advanced the Receiver all funds available under the Downing Street Facility. In accordance with the Receivership Order, the Downing Street Facility was used to repay a mortgage in the amount of approximately \$2.5 million owing to Firm Capital Mortgage Corporation ("Firm Capital") and the remaining funds are being used to fund the costs of these proceedings.

2.1.2 Scollard Trustee Corporation

1. Scollard Trustee Corporation ("STC") raised monies from investors through syndicated mortgage investments. STC then entered into a loan agreement with the Company for the full amount of the funds advanced by investors, secured by a mortgage over the Property. STC is a bare trustee and is responsible for holding and administering the mortgage. The STC debt ranks behind the Downing Street Facility.
2. As of the date of the receivership, the Company's indebtedness to STC totalled approximately \$14.1 million; interest and costs continue to accrue on this debt.
3. Pursuant to an order of the Court dated October 27, 2016, Grant Thornton Limited was appointed the trustee ("Trustee") of STC and several related entities under Section 37 of the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c. 29, as amended. The application to appoint KSV as Receiver was brought by the Trustee.

2.2 Other Creditors

1. Trisura Guarantee Insurance Company and Everest Insurance Company of Canada (jointly, the "Sureties") provided bonds to Tarion Warranty Corporation ("Tarion") in connection with certain liabilities that may accrue to Tarion in connection with the Boathaus project. As of the date of the receivership, the amounts, if any, owing to the Sureties are unknown; however, they are not expected to be significant. The Receivership Order provides that Trisura will be paid, in full, for any and all losses, damages, liabilities, costs and expenses owed to it from any proceeds of sale resulting from a transaction in respect of the Property.
2. According to searches conducted of the Land Titles Office (Toronto), three liens totalling approximately \$800,000 have been registered on title against the Real Property pursuant to the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended. The Receiver's counsel is in the process of reviewing these lien claims.

3. According to the Company's books and records, as of the date of the Receivership Order, the Company's unsecured obligations totalled approximately \$6.1 million, of which approximately \$4.5 million appears to be owing to affiliated entities for monies advanced by them to the Company. Details concerning the amounts owing to the affiliated entities are provided in Section 5 below.

3.0 Company Sale Process

1. The Receiver understands that the Company engaged Wynn Realty Corporation ("Wynn") in January, 2017 to list the Property for sale.
2. Since the date of its appointment, the Receiver has considered two offers presented by Wynn:
 - in respect of the first offer, immediately following its appointment, the Receiver spoke with the prospective purchaser to understand the status of its diligence - the offer had a one month diligence condition. The prospective purchaser advised the Receiver that Wynn had approached it just a few days prior to the receivership application and that it had neither conducted any diligence on the Property nor had any background on the Company. The Receiver advised that Purchaser that it was not prepared to pursue this transaction; and
 - in respect of the second offer, an agreement of purchase and sale ("APS") was negotiated; however, the purchaser failed to pay the deposit contemplated by the APS when due. On April 4, 2017, the purchaser advised that it would not be pursuing this transaction.

4.0 Strategic Process

4.1 Request for Proposals from Realtors

1. Contemporaneous with its discussions with parties that expressed an interest in acquiring the Property, the Receiver solicited proposals from six realtors to act as listing agent for the Property. The Receiver requested that each realtor provide, among other information, background information regarding each firm's experience with real estate similar to the Property, a marketing plan which considered investment, development and the outright sale of the Property, an estimate of value of the Property and the realtor's proposed commission structure. A copy of the request for proposal sent to realtors is attached as Appendix "A".
2. Each realtor was provided access to an electronic data room after it executed a confidentiality agreement ("CA").
3. The deadline for proposals was February 22, 2017. Five of the six realtors submitted a proposal. The Receiver prepared a summary of the proposals (the "Realtor Summary") and provided it to the Trustee and its legal counsel. The Realtor Summary is attached as Confidential Appendix "1". The rationale for seeking a sealing order for the Realtor Summary is provided in Section 4.2 below.
4. Two realtors, including TD, were short listed to present to the Receiver their proposals to sell the Property. Presentations were conducted on March 2, 2017.

5. The Receiver selected TD to act as the realtor on this assignment. The Receiver considered, among other things, TD’s experience selling similar properties and its identification of opportunities to enhance value on the project. The Receiver negotiated TD’s commission structure. The commission structure is such that TD’s fees increase as the value of any transaction increases. The Receiver discussed its realtor recommendation with the Trustee and after consideration, the Trustee provided its consent.
6. The Receiver negotiated a “carve out” in the listing agreement in respect of one party who has expressed an interest in the Property (the “Excluded Party”). Pursuant to the carve-out, TD agreed to waive its commission under the listing agreement and to receive a maximum fee of \$50,000², plus its out of pocket expenses, in the event the Receiver completes a transaction with the Excluded Party. The fee is intended to compensate TD for its time and costs incurred in connection with its early stage marketing efforts for the Property.
7. A copy of TD’s listing agreement is provided in Confidential Appendix “2”. The Receiver proposes to file the listing agreement on a sealed basis for the reasons provided below.

4.2 Confidentiality

1. The Receiver respectfully requests that the Realtor Summary and the listing agreement be filed with the Court on a confidential basis and be sealed (“Sealing Order”) as the documents contain confidential information. If these documents are not sealed, the information in these documents may negatively impact realizations on the Property as interested parties would have access to value estimates. The Receiver is not aware of any party that will be prejudiced if the information is sealed. The Receiver believes the proposed Sealing Order is appropriate in the circumstances.

4.3 Strategic Process

1. The Receiver recommends that the Court issue an order approving the Strategic Process summarized in the table below.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Underwriting</i>		
Finalize marketing materials	<ul style="list-style-type: none"> ➤ TD and the Receiver to: <ul style="list-style-type: none"> ○ prepare a summary of the project and the opportunity; ○ populate an online data room; ○ prepare a CA; and 	

² In the event the Receiver closes a transaction with the Excluded Party within 30 days from the date the Court approves a marketing process (the “Exclusion Period”), TD will be entitled to a fee of \$25,000 plus its out-of-pocket expenses. The fee increases by \$25,000 if the Receiver enters into a transaction with the Excluded Party after the Exclusion Period.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
	<ul style="list-style-type: none"> o prepare a Confidential Information Memorandum ("CIM"). 	Weeks 1-2
Prospect Identification	<ul style="list-style-type: none"> ➤ TD to develop a master prospect list. TD will qualify and prioritize prospects. ➤ TD will also have pre-marketing discussions with targeted developers. 	
<i>Phase 2 – Marketing</i>		
Stage 1	<ul style="list-style-type: none"> ➤ Mass market introduction, including: <ul style="list-style-type: none"> o Offering summary and marketing materials printed; o publication of the acquisition opportunity in <i>The Globe and Mail</i> (National Edition); o telephone and email canvass of leading prospects; and o meet with and interview prospective bidders. ➤ Assist the Receiver and its legal counsel in the preparation of a vendor's form of Purchase and Sale Agreement (the "PSA"). 	Weeks 3-4
Stage 2	<ul style="list-style-type: none"> ➤ TD to provide detailed information to qualified prospects which sign the CA, including the CIM, access to the data room and a form PSA. ➤ TD to facilitate all diligence by interested parties. 	Weeks 4-5
Stage 3	<ul style="list-style-type: none"> ➤ Prospective purchasers to submit PSAs or other proposals, including development proposals. 	Week 6
<i>Phase 3 – Offer Review and Negotiations</i>		
Short-listing of Offers	<ul style="list-style-type: none"> ➤ Short listing of bidders. ➤ Further bidding - Interested bidders may be asked to improve their offers. 	One week following bid deadline
Selection of Successful Bids	<ul style="list-style-type: none"> ➤ Select successful bidder and finalize definitive documents. 	One week
Transaction Approval Motion and Closing	<ul style="list-style-type: none"> ➤ Motion for transaction approval and close transaction 	Two weeks

2. Additional aspects of the Strategic Process include:

- a) the Property will be marketed on an "as is, where is" basis;
- b) the Receiver will be entitled to extend the deadline to submit offers under the Strategic Process if it considers it to be appropriate and necessary;

- c) the Receiver will have the right to reject any and all offers, including the highest offer; and
- d) any transaction will be subject to Court-approval.

4.4 Strategic Process Recommendation

1. The Receiver recommends that the Court issue an order approving the Strategic Process, including the retention of TD as the listing agent, for the following reasons:
 - a) TD's team will be led by individuals who have extensive real estate experience, including properties similar to the Property - TD has relationships with likely bidders for the Property. Its fees are structured is structured to incentivize it to maximize recoveries. Its fee structure is consistent with market;
 - b) the Strategic Process provides flexibility for the Receiver to consider various options for the Property, including sale and development proposals;
 - c) the Strategic Process is a fair, open and transparent process intended to canvass the market broadly in order to obtain the highest and best offer;
 - d) there will be no delay commencing the process – TD has conducted a review of information concerning the Property; and
 - e) the duration of the Strategic Process is sufficient to allow interested parties to perform diligence and to submit an offer. The Receiver will also have the right to extend or amend timelines. Each bidder will be provided with the same deadline to submit an offer.

5.0 Sources and Uses of the Company's Cash

1. At the commencement of the receivership proceedings, the Receiver reviewed the Company's balance sheet and identified significant balances owing to and from other real estate development projects affiliated with the Company's principal, Mr. Davies (collectively, the "Affiliated Property Companies"³).
2. Pursuant to paragraph 7.02 (g) of the loan agreement between STC and the Company dated April 8, 2014 (the "Loan Agreement"), the Company is not permitted to use the loan proceeds received from STC (the "Loan Proceeds") for any purpose other than the development and construction of the Boathaus project, unless the consent of STC is obtained for such alternative use. A copy of the Loan Agreement is attached as Appendix "B".

³ These are: Memory Care Investments (Kitchener) Ltd., Memory Care Investments (Oakville) Ltd., Memory Care Investments (Burlington) Ltd., Textbook (445 Princess Street) Inc., Textbook (555 Princess Street) Inc., Textbook (525 Princess Street) Inc., 1703858 Ontario Inc., Memory Care Investments Ltd., Textbook Student Suites Inc., Textbook Suites Inc., 2375219 Ontario Ltd., McKenzie Marsh Investments Ltd., Lafontaine Terrace Management Corporation, Legacy Lane Investments Ltd., McMurray Street Investments Inc. and Textbook (774 Bronson Avenue) Inc.

3. The Receiver reviewed the Company's bank statements, accounting records and unaudited financial statements for the period April 1, 2014 to February 2, 2017 (the "Review Period").

(unaudited; \$C000s)	Amount
<i>Receipts</i>	
Loan proceeds	
STC	13,596
Firm Capital	2,350
2174217 Ontario Ltd.	750
Affiliated Property Companies	6,186
Raj Singh and entities related to Mr. Singh	350
Aeolian	25
Sundry receipts	602
Total receipts	<u>23,859</u>
<i>Disbursements</i>	
Purchase of Real Property	9,163
Affiliated Property Companies	3,355
Interest and fees ⁴	2,705
STC loan commissions	2,175
Aeolian	1,244
Sales centre construction and operating costs	1,174
Development costs	1,161
Raj Singh and entities related to Mr. Singh	636
Loan repayment (2174217 Ontario Ltd.)	750
Professional fees	446
Entities and individuals related to John Davies (excluding Aeolian)	92
Other	955
Total disbursements	<u>23,856</u>
Ending balance	<u>3</u>

4. The table above reflects that the Company:
- a) had total receipts of approximately \$23.859 million, including \$6.186 million from Affiliated Property Companies; and
 - b) made disbursements of approximately \$23.856 million, including \$3.355 million to Affiliated Property Companies and approximately \$1.244 million to Aeolian, a company owned by Mr. Davies' wife and children. Details regarding payments to Aeolian are discussed in Section 5.1 below.

⁴ Approximately \$2.0 million in interest was paid in respect of STC. The remainder represents amounts paid to Firm Capital and 2174217 Ontario Ltd.

5. The Receiver understands that each Affiliated Property Company is a single purpose entity. Set out in Appendix "C" is a brief description of the single purpose activity. A summary of the amounts received from Affiliated Property Companies and paid to Affiliated Property Companies is provided in the table below:

(unaudited; \$C000s) Entity	Amounts Received From	Amounts Advanced To	Net Received/ (Advanced)
Memory Care Investments (Oakville) Ltd.	2,191	(687)	1,504
Memory Care Investments (Kitchener) Ltd.	1,516	(95)	1,421
Textbook (445 Princess Street) Inc.	645	-	645
Textbook (774 Bronson Avenue) Inc.	559	-	559
1703858 Ontario Inc.	553	(28)	525
Textbook Student Suites Inc.	122	(6)	116
Textbook (555 Princess Street) Inc.	13	-	13
Textbook Suites Inc.	14	(3)	11
Textbook (525 Princess Street) Inc.	7	-	7
2375219 Ontario Ltd.	23	(25)	(2)
McKenzie Marsh Investments Ltd.	100	(111)	(11)
Lafontaine Terrace Management Corporation	-	(75)	(75)
Memory Care Investments Ltd.	47	(229)	(182)
Legacy Lane Investments Ltd.	12	(229)	(217)
Memory Care Investments (Burlington) Ltd.	384	(884)	(500)
McMurray Street Investments Inc.	-	(983)	(983)
Total	<u>6,186</u>	<u>(3,355)</u>	<u>2,831</u>

6. During September and October, 2014, Loan Proceeds totalling approximately \$13.596 million were advanced from STC to the Company on four different dates. The Receiver was able to isolate the use of the Loan Proceeds, as reflected in the table below.

(unaudited; \$C000s)	Amount
Cash balance, as of September 1, 2014	3
<i>Receipts</i>	
STC	13,596
Other ⁵	32
Subtotal	13,628
<i>Disbursements</i>	
Purchase of Real Property	8,163 ⁶
First Commonwealth Mortgage Corporation	2,175
Affiliated Property Companies	1,259
STC interest reserve	1,088
Development costs	331
Professional fees	287
Tier 1 Transaction Advisory Services Inc.	156
Aeolian	133
Subtotal	13,592
Cash balance, as of October 31, 2014	39

7. The table reflects:

- a) \$2.175 million (16.0% of the total proceeds) was paid to First Commonwealth Mortgage Corporation⁷ as commissions and brokerage fees in connection with raising the STC loan. The amount of the commissions appears to be consistent with the Loan Agreement;
- b) approximately \$1.259 million (9.3% of the total proceeds) was advanced to certain Affiliated Property Companies. These advances occurred almost immediately after the Company received the Loan Proceeds. A schedule of these advances is provided below.

⁵ Mainly represents an HST refund.

⁶ The total amount paid for the Real Property, including closing expenses, was \$9.2 million. Of this amount, \$1 million was paid by Memory Care Investments (Oakville) Ltd.

⁷ The Loan Agreement indicates that First Commonwealth Mortgage Corporation and Tier 1 Mortgage Corporation are jointly the Mortgage Broker in connection with the STC loan.

(unaudited; \$C000s) Entity	Amount Advanced
Memory Care Investments (Burlington) Ltd.	366
McMurray Street Investments Inc.	350
Memory Care Investments (Oakville) Ltd.	322
Legacy Lane Investments Ltd.	120
Memory Care Investments (Kitchener) Ltd.	71
Memory Care Investments Ltd.	30
	<u>1,259</u>

- c) approximately \$287,000 was paid in professional fees and related disbursements, including approximately \$243,000 to Harris. Pursuant to Schedule "C" of the Loan Agreement, it appears that Harris was to receive approximately \$95,000, plus disbursements, in connection with the STC Loan. The amount received by Harris is subject to further review, including whether Harris performed other services to the Company which would have entitled it to further fees.

5.1 Advances to Aeolian

1. Net payments to Aeolian during the Review Period totalled approximately \$1.2 million, as follows:

(unaudited; C\$000's) Description	Amount
Management fees	780
Amounts advanced by the Company on behalf of:	
Legacy Lane Investments Ltd.	116
Memory Care Investments (Burlington) Ltd.	116
Memory Care Investments (Kitchener) Ltd.	116
Memory Care Investments (Oakville) Ltd.	116
	<u>464</u>
Total	<u>1,244</u>

2. The table above reflects:
- a) \$780,000 was charged by Aeolian on account of management fees on the Company's project. Approximately \$624,000 of these fees were recorded subsequent to the commencement of the receivership, the effect of which was to eliminate a receivable owing by Aeolian to the Company which arose because Aeolian had received cash from the Company in excess of the management fees it charged the Company prior to the commencement of the receivership; and
- b) approximately \$464,000 was paid by the Company to Aeolian on behalf of the projects noted in the table above.

3. The transactions between the Company and both the Affiliated Property Companies and Aeolian raise concerns about the use of monies invested by syndicated mortgage investors in the Company and in the Affiliated Property Companies.
4. The Receiver intends to discuss the implications of its preliminary findings in this section with the Trustee.

6.0 Conclusion and Recommendation

1. Based on the foregoing, the Receiver respectfully recommends that the Court make an order granting the relief detailed in Section 1.1 (1)(d) of this Report.

* * *

All of which is respectfully submitted,



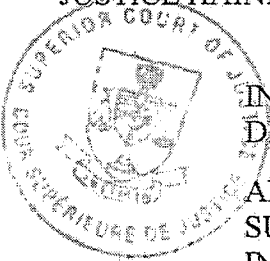
**KSV KOFMAN INC.
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
CERTAIN PROPERTY OF SCOLLARD DEVELOPMENT CORPORATION
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

TAB B

Court File No. CV-17-11689-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	THURSDAY, THE 13 th
)	
JUSTICE HAINEY)	DAY OF APRIL, 2017



IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD
DEVELOPMENT CORPORATION

AND IN THE MATTER OF A MOTION PURSUANT TO
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

THIS MOTION, made by KSV Kofman Inc., in its capacity as receiver and manager (the "**Receiver**") of the real property ("**Real Property**") registered on title as being owned by Scollard Development Corporation (the "**Company**") and of all of the assets, undertakings and properties of the Company acquired for or used in relation to the Real Property (together with the Real Property, the "**Property**"), for an order, among other things:

- a) approving the Strategic Process (as defined below), including the engagement of TD Cornerstone Commercial Reality Inc. ("**TD**") as listing agent under the Strategic Process;
- b) approving the First Report of the Receiver dated April 5, 2017 (the "**First Report**") and the activities of the Receiver as set out therein; and
- c) sealing the confidential appendices to the First Report pending further Order of this Court,

was heard this day at the Courthouse located at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver, including the First Report, filed,

AND UPON HEARING the submissions of counsel for the Receiver, and those other parties present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Danish Afroz sworn April 5, 2017, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time and manner of service of the Notice of Motion and Motion Record, including the First Report, are hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF REPORT AND ACTIVITIES

2. **THIS COURT ORDERS** that the First Report and the activities of the Receiver as set out therein be and are hereby approved.

ENGAGEMENT OF LISTING AGENT

3. **THIS COURT ORDERS** that the Receiver and TD are authorized to execute and to carry out and perform their respective obligations under the Listing Agreement dated April 5, 2017 between the Receiver and TD, attached as Confidential Appendix "1" to the First Report (the "**Listing Agreement**") (including payment of the amounts due to be paid to TD pursuant to the terms of the Listing Agreement).
4. **THIS COURT ORDERS** that all claims of TD pursuant to the Listing Agreement are not claims that may be compromised pursuant to any restructuring or other proceeding, and that no such restructuring or proceeding shall be approved if it does not provide for the payment of all amounts due to TD pursuant to the terms of the Listing Agreement.

APPROVAL OF STRATEGIC PROCESS

5. **THIS COURT ORDERS AND DECLARES** that the strategic process (the "**Strategic Process**"), as described in Section 4 of the First Report, be and is hereby approved.
6. **THIS COURT ORDERS** that the Receiver and TD be and are hereby authorized and directed to perform their obligations under and in accordance with the Strategic Process,

including under the terms of the Listing Agreement, and to take such further steps as they consider necessary or desirable in carrying out the Strategic Process, and any steps taken by the the Receiver and TD in connection with the Strategic Process prior to the date hereof, as described in the First Report, be and are hereby approved and ratified.

7. **THIS COURT ORDERS** that each of the Receiver and TD, and their respective affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Strategic Process, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Receiver or TD, as applicable, in performing its obligations under the Strategic Process (as determined by this Court).

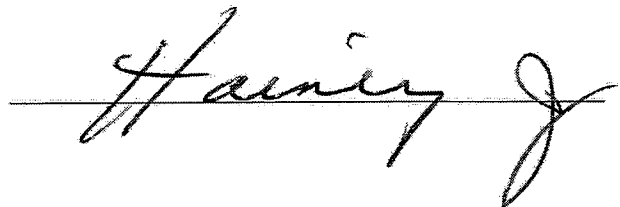
8. **THIS COURT ORDERS** that In connection with the Strategic Process and pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Receiver and TD are authorized and permitted to disclose personal information of identifiable individuals to prospective purchasers or offerors and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more transactions (each, a "**Transaction**"). Each prospective purchaser or offeror to whom such information is disclosed shall maintain and protect the privacy of such information and shall limit the use of such information to its evaluation of the Transaction, and if it does not complete a Transaction, shall: (i) return all such information to the Receiver or TD, as applicable; (ii) destroy all such information; or (iii) in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The transacting party with respect to 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 Company, and shall return all other personal information to the Receiver or TD, as applicable, or ensure that all other personal information is destroyed.

SEALING ORDER

9. **THIS COURT ORDERS** that the confidential appendices to the First Report be sealed, kept confidential and not form part of the public record pending further Order of this Court.

GENERAL

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or elsewhere 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
11. **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.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

APR 13 2017

PER / PAR: 

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION

AND IN THE MATTER OF A MOTION PURSUANT TO 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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean H. Zweig (LSUC #57307I)
Tel: (416) 777-6254
Fax: (416) 863-1716

Lawyers for the Receiver,
KSV Kofman Inc.

TAB C



TD Cornerstone Commercial Realty Inc.
 TD Tower
 66 Wellington Street West, 9th Floor
 Toronto, Ontario M5K 1A2

DATE: July 24, 2017
 TO: KSV KOFMAN INC.
 FROM: ASHLEY MARTIS
 RE: Memo Regarding Prospective Purchaser

With respect to our sale process, our marketing materials, bid instructions and the Receiver's form of offer were very explicit on what was required of proponents on both the deposit structure and materials required in support of the financial strength of a proponent to complete the acquisition of the property. Notwithstanding these instructions, the buyer submitted an offer that was incomplete and inconsistent with the bidding instructions (i.e. the offer did not explicitly state a closing date; the deposit was not provided with the offer; the deposit proposed represented ~1% of the purchase price on acceptance and ~1% on waiving of conditions vs 15% requested with offers; no supporting financial information was provided).

Following receipt and review of the bids, the buyer was contacted and advised that price alone would not be the basis of acceptance of an offer from a proponent and that demonstrated financial strength, inclusive of providing a 15% deposit with the offer was a critical assessment the Receiver would be making when considering bids. A letter dated May 29th, 2017 was sent to the buyer which explicitly outlined the requirements for offer resubmission inclusive of a 15% deposit (certified funds or wire transfer) as well as supporting information attesting to financial strength to close the transaction and experience of completing similar projects in the past 24 months. The buyer resubmitted the offer generally on the same terms as the first offer, save for a shorter conditional period (20 days vs 30 business days), a November 30th, 2017 closing date and included details on past projects and proposed financing structure.

The buyer was asked again if they would be submitting a certified cheque or making a wire transfer for the deposit as other bidders had, to which they advised they would only do so if successful in being awarded the property.

A review was completed of the supporting information which revealed that only three of the five transactions referenced the buyer as being the acquirer, with the largest land purchase being \$6.75M in January 2017 (the others being \$1.85M and \$2.41M respectively). In a final effort to qualify the buyer, a clarification letter was issued to them on June 6th, 2017 advising that in addition to the business terms, critical elements in selection of a successful proponent remained 1) demonstration of financial strength, 2) proven track record of success in developments of similar scale and scope, and 3) offers with limited or no conditionality. It was also noted that the Receiver was not solely focused on price, but rather focused on offers with a high certainty of successful closing with a proponent with demonstrated financial strength and track record. The buyer resubmitted on June 7th, 2017, again generally on the same terms as previous submissions, save for the conditional period which was reduced to 10 days (vs. 20) and the closing date was advanced to October 31st, 2017 (vs. November 30th, 2017).

No deposit funds were provided nor was any additional supporting information attesting to the buyer's financial strength, experience or evidence of committed financing to close the transaction. The buyer was advised again that the deposit requirement of 15% of the purchase price was a critical component of the bids as well as evidence of a financing commitment, to which they advised that the proposed \$200,000 deposit is all they had available and that we could "take [the deal] or sell it to someone else" and that they did not "have to prove anything if how [sic] we are getting the money".

TAB D

AGREEMENT OF PURCHASE AND SALE**BETWEEN****KSV KOFMAN INC.**

in its capacity as court-appointed receiver
of all the real property registered on title as being owned by Scollard Development Corporation
and of all the assets, undertakings and properties of Scollard Development Corporation acquired
for or used in relation to such real property,
and not in its personal capacity or in any other capacity

- and -

CARTTERA MANAGEMENT INC.

Dated: June 20, 2017

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AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this 20th day of June, 2017.

BETWEEN:

KSV KOFMAN INC. ("KSV"), in its capacity as court-appointed receiver of all the real property registered on title as being owned by Scollard Development Corporation and of all the assets, undertakings and properties of Scollard Development Corporation acquired for or used in relation to such real property, and not in its personal capacity or in any other capacity

(in such capacity, the "Receiver")

- and -

CARTTERA MANAGEMENT INC.

(the "Purchaser")

RECITALS

- A. **WHEREAS** pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") issued on February 2, 2017 (as amended and restated from time to time, the "Receivership Order"), the Receiver was appointed as the court-appointed receiver of all of the lands and premises municipally described as 1606, 1610 and 1614 Charles Street East, Whitby, Ontario (collectively, the "Lands") and all of the present and after-acquired assets, undertaking and properties of Scollard Development Corporation (the "Debtor") acquired for or used in relation to the Lands (collectively, together with the Lands, the "Property");
- B. **AND WHEREAS** pursuant to the Receivership Order the Receiver was authorized to, among other things, market the Purchased Assets (as defined hereafter) and apply for an order of the Court approving the sale of the Purchased Assets and vesting in and to a purchaser all the Debtor's right, title and interest in and to the Purchased Assets;
- C. **AND WHEREAS** pursuant to an order of the Court issued on April 13, 2017, a strategic process was approved by the Court and implemented by the Receiver;
- D. **AND WHEREAS** the Purchaser wishes to purchase and the Receiver wishes to sell the Purchased Assets upon the terms and subject to the conditions set out herein;

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the Parties (as defined hereafter), the Parties agree as follows:

- 2 -

ARTICLE 1
DEFINED TERMS

1.1 Definitions

In this Agreement:

"Acceptance Date" means the date that this Agreement is executed by and delivered to all Parties hereunder;

"Accounts Payable" means all amounts relating to the Business owing to any Person which are incurred in connection with the purchase of goods or services in the ordinary course of business;

"Agreement" means this agreement of purchase and sale, including all schedules and all amendments or restatements, as permitted, and references to "article", "section" or "schedule" mean the specified article, section of, or schedule to this Agreement and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

"Applicable Law" means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Authority;

"Approval and Vesting Order" means the approval and vesting order issued by the Court approving this Agreement and the transactions contemplated by this Agreement, and authorizing and directing the Receiver to complete the Transaction and conveying to the Purchaser all of each of the Receiver's and the Debtor's right, title and interest, if any, in the Purchased Assets (including the Lands), in each case free and clear of all Encumbrances other than the Permitted Encumbrances, and which order shall be in a form substantively similar to the draft order attached as Schedule "A" hereto or as the parties may otherwise agree;

"Books and Records" means the files, documents, instruments, surveys, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise) pertaining to the Purchased Assets that have been or will be delivered by the Receiver to the Purchaser at or before Closing; provided, however, that "Books and Records" shall not include any bank or accounting records;

"Business" means the business carried on by the Debtor with respect to the development and construction of the Project;

"Business Day" means a day on which banks are open for business in the City of Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;

"Claims" means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed,

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contractual, legal or equitable, including loss of value, professional fees, including solicitor and client costs and disbursements, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing, related to the Debtor or the Real Property, and "Claim" means any one of them;

"Closing" means the successful completion of the Transaction;

"Closing Date" means the later of: (i) the first Business Day which is Ten (10) Business Days after the expiry of the Inspection Period; and (ii) the first Business Day which is Two (2) Business Days after receipt of the Approval and Vesting Order;

"Closing Time" means 4:00 p.m. (Toronto time) on the Closing Date or such other time as agreed in writing by the Parties;

"Confidential Information" has the meaning given in Section 6.1 herein;

"Contracts" means all of the contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements and engagements to which the Debtor is a party and which relate to the Business, provided that the Unit Purchase Agreements shall not be included as Contracts;

"Court" has the meaning set out in the recitals hereof;

"Debtor" has the meaning set out in the recitals hereof;

"Deposit" has the meaning given in Section 4.2 herein;

"Encumbrances" means all liens, charges, security interests (whether contractual, statutory or otherwise), pledges, leases, offers to lease, title retention agreements, mortgages, restrictions on use, development or similar agreements, easements, rights-of-way, title defects, options or adverse claims or encumbrances of any kind or character whatsoever;

"ETA" means the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

"Execution Date" means the date of execution of this Agreement by all parties;

"Excluded Assets" means the Receiver's and the Debtor's right, title and interest in and to any asset of the Receiver and the Debtor other than the Purchased Assets, which Excluded Assets include the Receiver's and the Debtor's right, title and interest in and to the following:

- (a) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Debtor that do not relate exclusively or primarily to any of the Purchased Assets;
- (b) the benefit of any refundable Taxes payable or paid by the Debtor in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any

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amounts withheld by any taxing authority, and any claim or right of the Debtor to any refund, rebate, or credit of Taxes for the period prior to the Closing Date;

- (c) the Contracts; and
- (d) the Unit Purchase Agreements, the Unit Purchase Deposits and the Unit Purchase Obligations;

"Excluded Liabilities" has the meaning given in Section 3.3 herein;

"Governmental Authority" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, republic, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, and "Governmental Authority" means any one of them;

"HST" means harmonized sales tax imposed under Part IX of the ETA;

"Inspection Period" means the period commencing on the Acceptance Date to and including 5:00 p.m. (Toronto time) on the date which is Ten (10) Business Days immediately thereafter;

"Interim Period" means the period from and including the date of this Agreement to and including the Closing Date;

"ITA" means the *Income Tax Act*, R.S.C. 1985, c.1, as amended;

"Lands" has the meaning set out in the recitals hereof, the legal descriptions of which Lands are attached as Schedule "C" hereto, and includes all rights and benefits appurtenant thereto;

"LRO" means the Land Registry Office for the Land Titles Division of Durham (No. 40);

"Notice" has the meaning given in Section 16.3 herein;

"Parties" means the Receiver and the Purchaser;

"Permits" means all the authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required by any Governmental Authority in respect of the Real Property;

"Permitted Encumbrances" means all those Encumbrances described in Schedule "B" hereto;

"Person" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;

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"Plans" means all plans, designs and specifications in connection with the Real Property which are in the possession or control of the Receiver (it being acknowledged that the Receiver is under no obligation to incur additional expense to obtain such plans, designs and specifications), and the plans, designs and specifications relating to the Project prepared by IBI Group Architects (Canada) Inc. and/or IBI Group Professional Services (Canada) Inc.;

"Project" means the 232 unit residential condominium proposed to be constructed on the Lands known as "Boathaus";

"Property" has the meaning set out in the recitals hereof;

"Purchase Price" has the meaning set out in Section 4.1 herein;

"Purchased Assets" means all of the Receiver's and the Debtor's right, title and interest in and to the following:

- (a) the full benefit of all prepaid expenses and all deposits with any Person, public utility or Governmental Authority relating to the Real Property;
- (b) the Real Property;
- (c) the Permits, but only to the extent transferable to the Purchaser or the Purchaser's permitted assignees; and
- (d) all intellectual property, if any, owned by the Debtor with respect to the Project,

provided, however, that the Purchased Assets shall not include the Excluded Assets or the Excluded Liabilities;

"Purchaser" means Carttera Management Inc. and its permitted successors and assigns;

"Purchaser Representatives" has the meaning given in Section 6.1 herein;

"Real Property" means the Lands, together with all buildings, improvements and structures thereon (including without limitation the sales presentation centre) and the fixtures affixed thereto, together with all the furniture, appliances, and audio/visual equipment within the sales presentation centre;

"Receiver" has the meaning set out in the recitals hereof;

"Receivership Order" has the meaning set out in the recitals hereof;

"Receiver's Solicitors" means Bennett Jones LLP;

"Rights" has the meaning given in Section 3.1(c) herein, but only has such meaning in such Section;

"Taxes" means all taxes, HST, land transfer taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added,

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- (c) This Agreement or any document delivered in connection with this Agreement shall not constitute an assignment of any rights, benefits or remedies (in this Section 3.1(c), collectively, the "Rights") under any Permits that form part of the Purchased Assets and which are not assignable by the Receiver to the Purchaser without the required consent of the other party or parties thereto (collectively, the "Third Party"). To the extent any such consent is required and not obtained by the Receiver prior to the Closing Date, then, to the extent permitted by Applicable Law:
- (i) the Receiver will, at the request, direction and cost of the Purchaser, acting reasonably, assist the Purchaser, in a timely manner and using commercially reasonable efforts, in applying for and obtaining all consents or approvals required under the Permits in a form satisfactory to the Receiver and the Purchaser, acting reasonably;
 - (ii) the Receiver will only deal with or make use of such Rights in accordance with the directions of the Purchaser;
 - (iii) at the Purchaser's cost, the Receiver will use its commercially reasonable efforts to take such actions and do such things as may be reasonably and lawfully designed to provide the benefits of the Permits to the Purchaser, including holding those Permits in trust for the benefit of the Purchaser or acting as agent for the Purchaser pending such assignment; and
 - (iv) in the event that the Receiver receives funds with respect to those Permits, the Receiver will promptly pay over to the Purchaser all such funds collected by the Receiver, net of any outstanding costs directly related to the assignment in respect of such Permits.

The provisions of this Section 3.1 shall not merge but shall survive the completion of the Transaction. Notwithstanding the forgoing, nothing herein shall prohibit the Receiver, in its sole, absolute and unfettered discretion, from seeking to be discharged as receiver of the Debtor at any time after Closing. The parties hereto hereby acknowledge and agree that the covenants of the Receiver contained in this Section 3.1 shall terminate concurrently with the discharge of the Receiver as receiver of the Debtor.

3.2 Excluded Assets

Notwithstanding anything else in this Agreement, the Purchased Assets shall not include the Excluded Assets.

3.3 Excluded Liabilities

The Purchaser is not assuming, and shall not be deemed to have assumed any liabilities, obligations or commitments of the Debtor or the Receiver or of any other Person, whether known or unknown, fixed or contingent or otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Debtor's ownership or interest therein, whether pursuant to this

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Agreement or as a result of the Transaction (collectively, the "Excluded Liabilities"). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Debtor arising with respect to any period prior to the Closing Date and all Taxes payable relating to any matters or assets other than the Purchased Assets arising with respect to the period from and after the Closing Date;
- (b) any liability, obligation or commitment associated with: (i) the Accounts Payable and incurred prior to Closing; or (ii) any employees of the Debtor;
- (c) any liability, obligation or commitment resulting from an Encumbrance that is not a Permitted Encumbrance;
- (d) any liability, obligation or commitment associated with any of the Excluded Assets; and
- (e) any liability, obligation or commitment in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

ARTICLE 4

PURCHASE PRICE AND SATISFACTION OF PURCHASE PRICE

4.1 Purchase Price

The purchase price for the Purchased Assets shall be
 _____ (the "Purchase Price").

4.2 Deposit

Coincident with the execution of this Agreement by the Purchaser and in accordance with instructions provided to the Purchaser by TD Cornerstone Commercial Realty Inc., as broker for the Receiver, pursuant to a letter dated May 29, 2017, the Purchaser shall pay to the Receiver a deposit by wire transfer in the amount of

■ _____ (the "Deposit"). The Deposit shall be invested by the Receiver in an interest bearing account or term deposit or guaranteed investment certificate with or issued by a Canadian chartered bank. Interest on the Deposit shall accrue to the benefit of the Purchaser from the date it is deposited with the Receiver until the Closing Date or other termination of this Agreement. In the event that the Purchaser is legally obligated to close the transaction contemplated by this Agreement but fails to do so through no fault of the Receiver, the Deposit, together with any interest that has been earned thereon, shall be forfeited to the Receiver as liquidated damages and not as a penalty and thereupon shall be paid to the Receiver and become the absolute property of the Receiver, the Purchaser shall cease to have any rights or entitlement in respect of the Deposit and the interest that has been earned thereon, the Purchaser shall have no further obligations or liabilities to the Receiver of any nature or kind (other than those which expressly survive the termination of this Agreement), and the Receiver shall have no further Claims against the Purchaser arising from the Purchaser's default or any other provision of this Agreement. The

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parties irrevocably agree that if the Deposit is forfeited to the Receiver pursuant to the terms hereof, such forfeiture shall not constitute a penalty but shall constitute a payment to the Receiver of the agreed upon amount of liquidated damages (it being agreed that such amount constitutes a genuine pre estimate by both parties of the damages that will be suffered by the Receiver in such circumstances). In the event that the Receiver does not accept the Purchaser's offer by the irrevocability date stated pursuant to Section 16.21 or is legally obligated to close the transaction contemplated by this Agreement but fails to do so, the Deposit shall, together with any interest earned thereon, be forthwith repaid to the Purchaser.

4.3 Satisfaction of Purchase Price

The Purchaser shall indefeasibly pay and satisfy the Purchase Price as follows:

- (a) the Deposit shall be applied against the Purchase Price; and
- (b) the balance of the Purchase Price, subject to adjustments contained in this Agreement, shall be paid by wire or certified cheque on Closing by the Purchaser to the Receiver's Solicitors.

4.4 Allocation of Purchase Price

The Parties, acting reasonably and in good faith, covenant to use reasonable commercial efforts to agree to allocate the Purchase Price among the Purchased Assets in a mutually agreeable manner on or prior to the Closing Time, provided that failure of the Parties to agree upon an allocation shall not result in the termination of this Agreement but rather shall result in the nullity of the application of this Section 4.4 of the Agreement such that each Party shall be free to make its own reasonable allocation.

4.5 Adjustment of Purchase Price

- (a) The Purchase Price shall be adjusted as of the Closing Time for any realty taxes and local improvement rates and charges (including interest thereon), utilities and fuel accounts and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets. The Receiver shall prepare a statement of adjustments and deliver same with all supporting documentation to the Purchaser for its approval no later than five (5) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be agreed upon by the Parties as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably, and such estimate shall serve as a final determination. Notwithstanding any other term in this Agreement, in no event shall the Purchaser be responsible for any charges, fees, Taxes, costs or other adjustments in any way relating to the period prior to the Closing Date or relating to the Excluded Liabilities or to any matters or assets other than the Purchased Assets for the period from and after the Closing Date.

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- (a) copies of any plans, specifications, drawings and designs for the Project;
- (b) copies of all Permitted Encumbrances and Permits and Plans;
- (c) copies of all surveys and reference plans;
- (d) a current and complete legal description of the Lands and any current realty tax assessment notices and tax bills relating to the Property;
- (e) copies of all existing work orders, notices, directives, letters of non-compliance issued by any governmental or other authority affecting the Real Property;
- (f) copies of all environmental reports, engineering reports, audits or studies relating to the Real Property;
- (g) copies of all management and evaluation reports relating to the physical condition of the Real Property;
- (h) all current permits, licences and agreements with the municipality in which the Real Property is situate or other regional or provincial authorities or commissions having jurisdiction, including the Permits;
- (i) all current information files relating to applicable zoning and building by-laws and regulations and orders of other regulatory bodies;
- (j) details of all disputes and litigation involving the Property and all files relating to same; and
- (k) list of intellectual property owned by the Debtor with respect to the Project.

6.4 Access and Tests

Subject to receipt of the Deposit and the Purchaser complying with each of its obligations herein, during the Interim Period the Purchaser and its agents, consultants and employees shall have access to the Real Property during normal business hours upon reasonable prior notice to the Receiver, at the Purchaser's sole risk and expense, for the purpose of inspecting the Real Property, including without limitation performing physical and structural inspections, soil tests and environmental audits. Such inspections, tests and audits shall be conducted in a manner that reasonably minimizes interference with the use of the Real Property. The Receiver, its agents, consultants or employees shall have the right to accompany the Purchaser and its agents, consultants and employees on any inspections, provided that the Receiver makes itself or its representative available for such purpose, at the time of such inspections and failing such availability by the Receiver or its representative after having been given two (2) availability periods for each inspection during normal business hours, the Purchaser shall be permitted to proceed with such inspections without the presence of the Receiver or its representative as aforesaid. The Purchaser shall repair any damage to the Real Property caused by inspections, tests and audits performed by the Purchaser or its agents, consultants or employees and fully indemnify the Receiver and the Debtor from all costs of repairing any damage caused by such inspections, tests or audits and all Claims relating to any

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such inspections, tests and audits and from all Claims incurred by the Receiver as a result thereof. This indemnity shall survive termination of this Agreement regardless of the cause of such termination. In the event that the Purchaser does not repair the Real Property as aforesaid then the Receiver shall be entitled to use of such portion(s) of the Deposit as may be required to complete such restoration. The Purchaser shall ensure that its experts, contractors or other consultants pursuing or conducting tests, inspections or audits at the Real Property are qualified experts and adequately insured for any damages that they may cause to the Real Property. The Receiver may require the Purchaser to carry suitable liability insurance before authorizing any invasive tests, inspections or audits at the Real Property. Evidence of such insurance shall be provided to the Receiver prior to the commencement of any such invasive tests, inspections or audits.

ARTICLE 7 **CLOSING ARRANGEMENTS**

7.1 Closing

Closing shall take place at the Closing Time at the offices of the Receiver's lawyers, Bennett Jones LLP, located in Toronto, Ontario, or at such other time or at such other place as the Parties may agree in writing.

7.2 Tender

Any tender of documents or money under this Agreement may be made upon the Parties or their respective lawyers, and money shall be tendered by wire transfer of immediately available funds to the account specified by the receiving Party. The Receiver and the Purchaser acknowledge and agree that insofar as the tender of any documents to be electronically registered is concerned, the tender of same will be deemed to be effective and proper when the solicitor for the party tendering has completed all steps required by Teraview in order to complete this transaction that can be performed or undertaken by the tendering party's solicitor without the cooperation or participation of the other party's solicitor, and specifically when the tendering party's solicitor has electronically "signed" the transfer/deed and any other Closing document, if any, to be electronically registered for completeness and granted access to the other party's solicitor to same, but without the necessity of the tendering party's solicitor actually releasing such documents to the other party's solicitor for registration.

7.3 Receiver's Closing Deliverables

The Receiver covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date as expressly provided herein:

- (a) a copy of the issued and entered Approval and Vesting Order and the attached Receiver's Certificate which vests the Purchased Assets in the Purchaser free and clear of all Encumbrances except for Permitted Encumbrances and free and clear of all Unit Purchase Obligations and Excluded Liabilities;
- (b) a statement of adjustments prepared in accordance with Section 4.5 hereof, to be delivered not less than five (5) Business Days prior to Closing;

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- (c) an assignment and assumption agreement of all Permits (to the extent assignable) and to the extent not assignable, an agreement that the Receiver will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);
- (d) a certificate signed by a senior officer of the Receiver confirming that the Receiver is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada) and that to the best of the Receiver's knowledge, the Debtor is not a non-resident of Canada within the meaning of the said section 116;
- (e) a certificate from the Receiver, dated as of the Closing Date, certifying:
 - (i) that, except as disclosed in the certificate, the Receiver has not been served with any notice of appeal with respect to the Approval and Vesting Order, or any notice of any application, motion or proceedings seeking to set aside or vary the Approval and Vesting Order or to enjoin, restrict or prohibit the Transaction; and
 - (ii) that all representations, warranties and covenants of the Receiver contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
- (f) an acknowledgement, dated as of the Closing Date, that each of the conditions in Section 8.1 hereof have been fulfilled, performed or waived as of the Closing Time;
- (g) originals, to the extent in the Receiver's possession or control, of the disclosure materials listed in Section 6.3 of this Agreement;
- (h) vacant possession of the Real Property free from any occupancy rights of any Person; and
- (i) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Purchaser, acting reasonably, or by Applicable Law or any Government Authority.

7.4 Purchaser's Closing Deliverables

The Purchaser covenants to execute, where applicable, and deliver the following to the Receiver at Closing or on such other date as expressly provided herein:

- (a) the indefeasible payment and satisfaction in full of the Purchase Price according to Section 4.3 hereof;
- (b) an assignment and assumption agreement of all Permits (to the extent assignable) and to the extent not assignable, an agreement that the Receiver will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);
- (c) a certificate from the Purchaser, dated as of the Closing Date, certifying that all representations, warranties and covenants of the Purchaser contained in Article 10

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of this Agreement are true in all material respects as of the Closing Time, with the same effect as though made on and as of the Closing Time;

- (d) if necessary, payment or evidence of payment of HST applicable to the Purchased Assets or, if applicable, appropriate certificates with respect to HST in accordance with Article 5 hereof;
- (e) if desired, a direction directing the Receiver to convey title to any of the Purchased Assets to an entity other than the Purchaser; and
- (f) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Receiver, acting reasonably, or by Applicable Law or any Government Authority.

7.5 Receiver's Certificate

Upon receipt of written confirmation from the Purchaser that all of the conditions contained in Section 8.4 have been satisfied or waived by the Purchaser, and upon satisfaction or waiver by the Receiver of all of the conditions contained in Section 8.1, the Receiver shall forthwith deliver to the Purchaser the Receiver's Certificate comprising Schedule "A" of the Approval and Vesting Order, and shall file same with the Court.

ARTICLE 8 **CONDITIONS PRECEDENT TO CLOSING**

8.1 Conditions in Favour of the Receiver

The obligation of the Receiver to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (a) all the representations and warranties of the Purchaser contained in Article 10 of this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Purchaser contained in this Agreement to be performed on or before the Closing Date shall have been duly performed by the Purchaser in all material respects;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Court shall have issued the Approval and Vesting Order.

8.2 Conditions in Favour of Receiver Not Fulfilled

If any of the conditions contained in Section 8.1 hereof is not fulfilled on or prior to the Closing Date and such non-fulfilment is not directly or indirectly as a result of any action or omission of

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the Receiver, then the Receiver may, at its sole discretion (other than as stipulated below), and without limiting any rights or remedies available to it at law or in equity:

- (a) terminate this Agreement by notice to the Purchaser, in which event the Receiver shall be released from its obligations under this Agreement to complete the Transaction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

8.3 Inspection Conditions in Favour of the Purchaser

The Purchaser's obligation to carry out the transactions contemplated herein is subject to fulfilment of each of the following conditions on or before the expiration of the Inspection Period unless waived by the Purchaser in accordance with the provisions hereof:

- (a) **Purchaser's Investigations:** The Purchaser shall be allowed until the expiry of the Inspection Period to conduct inspections and investigations of the Purchased Assets and any agreements relating thereto, and with respect to the documents and materials delivered or made available to the Purchaser pursuant to this Agreement and with respect to such matters in connection with the Purchased Assets and the Purchaser's intended use thereof as the Purchaser may deem necessary or desirable and the Purchaser is satisfied, in its sole, absolute and subjective discretion with the results of such tests, audits, inspections and investigations;
- (b) **Environmental:** On or before the expiry of the Inspection Period, the Purchaser shall have conducted soil tests, environmental audits and other environmental inspections and investigations of the Real Property as the Purchaser may deem necessary or desirable and the Purchaser is satisfied, in its sole, absolute and subjective discretion with the results of same; and
- (c) **Title to the Purchased Assets:** On or before the expiry of the Inspection Period, the Purchaser is satisfied, in its sole, absolute and subjective discretion, with the title to and zoning of the Purchased Assets and all Permitted Encumbrances relating thereto.

The Purchaser may, by notice in writing, notify the Receiver that the foregoing conditions are satisfied or that it is waiving same. If no such notice is delivered on or before the expiry of the Inspection Period, the Purchaser will be deemed not to have satisfied itself and this Agreement shall thereupon terminate and be null and void and the Deposit and accrued interest thereon shall be forthwith returned to the Purchaser by the Receiver, who is irrevocably instructed pursuant to the provisions hereof to do so.

8.4 Closing Conditions in Favour of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date which conditions are inserted

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for the sole benefit of the Purchaser and may be waived in whole or in part at the Purchaser's sole option:

- (a) all the representations and warranties of the Receiver contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Receiver under this Agreement to be performed on or before the Closing Date shall have been duly performed by the Receiver;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction;
- (d) from the date of this Agreement to Closing, there shall have been no new work orders, deficiency notices, notices of violation or non-compliance or similar orders, and no new Encumbrances registered on title to the Lands or matters affecting the title to the Lands arising or registered after the date of this Agreement, in each case which are not otherwise vested-out pursuant to the Approval and Vesting Order;
- (e) from the date of this Agreement to Closing, there shall not have been any emission, release, discharge, disposal, or other deposit of a hazardous substance occurring on or which has migrated onto the Lands which has a material adverse effect on the Lands, and there shall not have been any material adverse change in the condition or operation of the Lands;
- (f) the Court shall have issued the Approval and Vesting Order and such order shall be in full force and effect and not have been stayed or reversed; and
- (g) from and after the Inspection Period up to and including the Closing Date the Receiver shall not have terminated, amended or modified any Permitted Encumbrance without the prior written consent of the Purchaser.

8.5 Conditions in Favour of Purchaser Not Fulfilled

If any of the conditions contained in Section 8.4 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Purchaser, then the Purchaser may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the Receiver, in which event the Purchaser and the Receiver shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall be immediately returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

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ARTICLE 9
REPRESENTATIONS & WARRANTIES OF THE RECEIVER

9.1 Representations and Warranties of the Receiver

The Receiver represents and warrants to the Purchaser as follows, with the knowledge and expectation that the Purchaser is placing complete reliance thereon and, but for such representations and warranties, the Purchaser would not have entered into this Agreement:

- (a) the Receiver has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary action on the part of the Receiver, subject to the Approval and Vesting Order. This Agreement is a valid and binding obligation of the Receiver enforceable in accordance with its terms;
- (b) the Receiver has been duly appointed as the receiver of the Real Property by the Receivership Order and such Receivership Order is in full force and effect and has not been stayed, and the Receiver has the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey all right, title and interest of the Receiver and the Debtor in and to the Purchased Assets;
- (c) the Receiver is not a non-resident of Canada for the purposes of the ITA; and
- (d) subject to any charges created by the Receivership Order, the Receiver has done no act itself to encumber or dispose of the Purchased Assets and is not aware of any action or process pending or threatened against the Debtor that may affect its ability to convey any of the Purchased Assets as contemplated herein.

ARTICLE 10
REPRESENTATIONS & WARRANTIES OF THE PURCHASER

10.1 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Receiver as follows, with the knowledge and expectation that the Receiver is placing complete reliance thereon and, but for such representations and warranties, the Receiver would not have entered into this Agreement:

- (a) the Purchaser is duly formed and validly subsisting under the laws of the Province of Ontario;
- (b) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Government Authority, or any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all

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necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;

- (c) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date; and
- (d) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

ARTICLE 11 **COVENANTS**

11.1 Mutual Covenants

Each of the Receiver and the Purchaser hereby covenants and agrees that, from the date hereof until Closing, each shall take all such actions as are necessary to have the Transaction approved in the Approval and Vesting Order on substantially the same terms and conditions as are contained in this Agreement, and to take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the conditions set forth in Article 8 hereof.

11.2 Receiver Covenants

The Receiver hereby covenants and agrees that, from the date hereof until Closing, it shall use commercially reasonable efforts to provide to the Purchaser all necessary information in respect of the Debtor and the Purchased Assets reasonably required to complete the applicable tax elections in accordance with Article 5 hereof and to execute all necessary forms related thereto.

ARTICLE 12 **POSSESSION AND ACCESS PRIOR TO CLOSING**

12.1 Possession of Purchased Assets

The Receiver shall remain in possession of the Purchased Assets until the Closing Time, at which time the Purchaser shall take possession of the Purchased Assets where situated. In no event shall the Purchased Assets be sold, assigned, conveyed or transferred to the Purchaser until all the conditions set out in this Agreement and the Approval and Vesting Order have been satisfied or waived and the Purchaser has satisfied or the Receiver has waived all the delivery requirements outlined in Section 8.1 hereof.

12.2 Risk

- (a) The Purchased Assets shall be and remain at the risk of the Receiver until Closing and at the risk of the Purchaser from and after Closing.
- (b) If, prior to Closing, the Purchased Assets are substantially damaged or destroyed by fire, casualty or otherwise, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) calendar days after notification to the Purchaser by the Receiver of the occurrence of such damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) calendar days of the Closing Date), in which event this Agreement shall be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial, the Purchaser shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. For the purposes of this Section 12.2(b), substantial damage or destruction shall be deemed to have occurred if the loss or damage to the Purchased Assets exceeds fifteen percent (15%) of the total Purchase Price (inclusive of the Deposit).
- (c) If, prior to the Closing Date, all or a material part of the Lands is expropriated or a notice of expropriation or intent to expropriate all or a material part of the Lands is issued by any Governmental Authority, the Receiver shall immediately advise the Purchaser thereof by Notice in writing. The Purchaser shall, by Notice in writing given within three (3) Business Days after the Purchaser receives Notice in writing from the Receiver of such expropriation, elect to either: (i) complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price, and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Receiver or Debtor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis; or (ii) terminate this Agreement and not complete the Transaction, in which case all rights and obligations of the Receiver and the Purchaser (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith.

ARTICLE 13 AS IS, WHERE IS

13.1 Condition of the Purchased Assets

The Purchaser acknowledges that, save as expressly provided in Section 9.1, the Receiver is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" and "without recourse" basis as the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist on the Closing Date, whether patent or latent. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that, save as expressly provided in Section 9.1, neither

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the Receiver nor the Debtor has guaranteed or will guarantee title to or marketability, use or quality of the Purchased Assets, that the Purchaser will conduct such inspections of the condition and title to the Purchased Assets as it deems appropriate and will satisfy itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Receiver to sell, assign, convey or transfer same, save and except as expressly provided in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Purchaser. The description of the Purchased Assets contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description.

ARTICLE 14 **POST-CLOSING MATTERS**

14.1 Books and Records

The Purchaser shall keep and maintain the Books and Records for a period of two (2) years from the Closing Date, or for any longer period as may be required by Applicable Law or Governmental Authority or as requested by the Receiver. Upon reasonable advance notice, during such two (2) year period after the Closing Date, the Purchaser will grant the Receiver and the Debtor and, in the event the Debtor is adjudged bankrupt, any trustee of the estate of the Debtor and their respective representatives, reasonable access during normal business hours to use and copy the Books and Records at the sole cost of the Receiver or bankruptcy trustee of the estate of the Debtor, as the case may be, and at no cost to the Purchaser.

ARTICLE 15 **TERMINATION**

15.1 Termination of this Agreement

This Agreement may be validly terminated:

- (a) upon the mutual written agreement of the Parties;
- (b) pursuant to Section 8.2 hereof by the Receiver;
- (c) pursuant to Sections 8.3 and/or 8.5 hereof by the Purchaser; or
- (d) pursuant to Section 12.2 hereof.

15.2 Remedies for Breach of Agreement

If this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Receiver, the Purchaser shall be entitled to the return of the Deposit without deduction, which shall be returned to the Purchaser forthwith, and this shall be the Purchaser's sole

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right and remedy pursuant to this Agreement or at law as a result of the Receiver's breach. If this Agreement is terminated as a result of a breach of a representation, warranty, covenant or obligation of the Purchaser, the Deposit shall be forfeited to the Receiver as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Receiver would suffer in such circumstances, and this shall be the Receiver's sole right and remedy pursuant to this Agreement or at law as a result of the Purchaser's breach.

15.3 Termination If No Breach of Agreement

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then the parties hereto shall be released from all obligations and liabilities hereunder, other than their obligations under Article 6, and the Deposit shall be forthwith returned to the Purchaser without deduction.:

- (a) all obligations of each of the Receiver and the Purchaser hereunder shall end completely, except those that survive the termination of this Agreement;
- (b) the Purchaser shall be entitled to the return of the Deposit without deduction, which shall be returned to the Purchaser forthwith; and
- (c) neither Party shall have any right to specific performance, to recover damages or expenses or to any other remedy (legal or equitable) or relief other than as expressly provided herein.

ARTICLE 16

GENERAL CONTRACT PROVISIONS

16.1 Further Assurances

From time to time after Closing, each of the Parties shall execute and deliver such further documents and instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof, including, at the Purchaser's request and expense, the Receiver shall execute and deliver such additional conveyances, transfers and other assurances as may, in the opinion of the Parties or their counsel, acting reasonably, be reasonably required to effectually carry out the intent of this Agreement and transfer the Purchased Assets to the Purchaser.

16.2 Survival Following Completion

Notwithstanding any other provision of this Agreement, Article 9, Article 10, Section 15.2 and Section 15.3 shall survive the termination of this Agreement and the completion of the Transaction, provided, however, that upon the discharge of the Receiver, the Parties' respective obligations by reason of this Agreement shall end completely and they shall have no further or continuing obligations by reason thereof.

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16.3 Notice

All notices, requests, demands, waivers, consents, agreements, approvals, communications or other writings required or permitted to be given hereunder or for the purposes hereof (each, a "Notice") shall be in writing and be sufficiently given if personally delivered, sent by prepaid registered mail or transmitted by email, addressed to the Party to whom it is given, as follows:

(a) to the Receiver:

KSV Kofman Inc.
150 King Street West, Suite 2308
Toronto, ON M5H 1J9

Attention: Robert Kofman and Noah Goldstein
Tel: (416) 932-6228 / (416) 932-6207
Email: bkofman@ksvadvisory.com / ngoldstein@ksvadvisory.com

and a copy to the Receiver's counsel to:

Bennett Jones LLP
3400 One First Canadian Place
Toronto, ON M5X 1A5

Attention: Sean Zweig and John van Gent
Tel: (416) 777-6254 / (416) 777-6522
Email: zweigs@bennettjones.com / vangentj@bennettjones.com

(b) to the Purchaser:

Carttera Management Inc.
20 Adelaide Street East
Suite 501
Toronto, ON M5C 2T6

Attention: Chris Barrett
Tel: (416) 987-2591
Email: cbarrett@carttera.com

and a copy to the Purchaser's counsel to:

McCarthy Tétrault LLP
Suite 5300, Toronto Dominion Bank Tower
Toronto-Dominion Centre
Toronto, ON M5K 1E6

Attention: Danny C. Grandilli
Tel: (416) 601-7597
Email: dgrandil@mccarthy.ca

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or such other address of which Notice has been given. Any Notice mailed as aforesaid will be deemed to have been given and received on the third (3rd) Business Day following the date of its mailing. Any Notice personally delivered will be deemed to have been given and received on the day it is personally delivered, provided that if such day is not a Business Day, the Notice will be deemed to have been given and received on the Business Day next following such day. Any Notice transmitted by email will be deemed given and received on the first (1st) Business Day after its transmission.

If a Notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the fourth (4th) Business Day after the mailing thereof, such Notice will be deemed to have not been received unless otherwise personally delivered or transmitted by email.

16.4 Waiver

No Party will be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing and such waiver will be limited to the circumstance set forth in such written waiver.

16.5 Consent

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit or the requirement for such consent is not required pursuant to the terms of the Approval and Vesting Order, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

16.6 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties irrevocably attorn to the jurisdiction of the courts of the Province of Ontario sitting in Toronto. The Parties consent to the exclusive jurisdiction and venue of the Court for the resolution of any disputes among them, regardless of whether or not such disputes arose under this Agreement.

16.7 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties. There are not and will not be any verbal statements, representations, warranties, undertakings or agreements between the Parties. This Agreement may not be amended or modified in any respect except by written instrument signed by the Parties. The recitals herein are true and accurate, both in substance and in fact.

16.8 Time of the Essence

Time will be of the essence, provided that if the Parties establish a new time for the performance of an obligation, time will again be of the essence of the new time established.

16.9 Time Periods

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

16.10 Assignment

No party hereto may assign this Agreement or any part hereof without the prior written consent of the other which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Purchaser may, prior to Closing, assign this Agreement to one or more entities (collectively an "Assignee") to which it provides advisory or management services if it provides an agreement in favour of the Receiver executed by the Assignee agreeing to be bound hereunder, provided that the Purchaser shall not be released from its obligations hereunder until after the Closing of the transaction.

16.11 Expenses

Except as otherwise set out in this Agreement, all costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

16.12 Severability

If any portion of this Agreement is prohibited in whole or in part in any jurisdiction, such portion shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining portions of this Agreement and shall, as to such jurisdiction, be deemed to be severed from this Agreement to the extent of such prohibition.

16.13 No Strict Construction

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

16.14 Cumulative Remedies

Unless otherwise expressly stated in this Agreement, no remedy conferred upon or reserved to one or both of the Parties is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

16.15 Currency

All references to dollar amounts contained in this Agreement shall be deemed to refer to lawful currency of Canada.

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16.16 Receiver's Capacity

It is acknowledged by the Purchaser that the Receiver is entering into this Agreement solely in its capacity as Court-appointed receiver of the Property and that the Receiver shall have absolutely no personal or corporate liability under or as a result of this Agreement in any respect.

16.17 Planning Act

This Agreement is to be effective only if the provisions of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, are complied with.

16.18 No Third Party Beneficiaries

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns. No other person or entity shall be regarded as a third party beneficiary of this Agreement.

16.19 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

16.20 Counterparts

This Agreement may be executed in counterparts and by facsimile or PDF, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

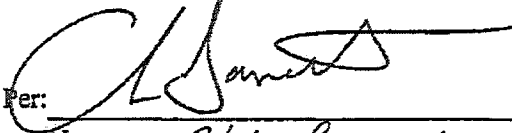
16.21 Offer to Purchase

Upon execution by the Purchaser, this Agreement shall constitute an irrevocable offer by the Purchaser to purchase the Purchased Assets upon the terms and conditions contained herein until 5:00 p.m. (Toronto time) on June 21, 2017. If the offer contained herein is not accepted by the Receiver by execution and delivery of a fully executed and accepted copy of this Agreement on the terms and conditions contained herein by such time, this offer shall automatically terminate and be null and void and of no further force and effect and the Receiver shall immediately return the Deposit paid by the Purchaser pursuant to the terms of Section 4.2 of this Agreement, plus all accrued interest on such Deposit.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF the Purchaser has duly executed this Agreement as of the date first above written.

CARTTERA MANAGEMENT INC.

Per: 
Name: *Chris Barrett*
Title: Authorized Signing Officer

ACCEPTED by the Receiver this ___ day of June, 2017

KSV KOFMAN INC., in its capacity as court-appointed receiver of all the real property registered on title as being owned by Scollard Development Corporation and of all the assets, undertakings and properties of Scollard Development Corporation acquired for or used in relation to such real property, and not in its personal capacity or in any other capacity

Per: _____
Name: Robert Kofman
Title: President and Managing Director

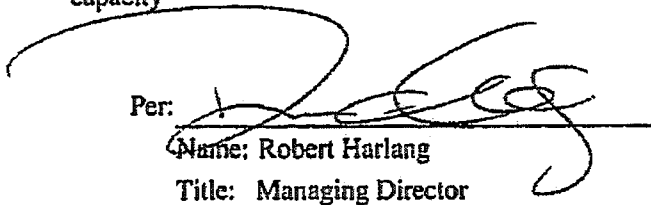
IN WITNESS WHEREOF the Purchaser has duly executed this Agreement as of the date first above written.

CARTTERA MANAGEMENT INC.

Per: _____
Name:
Title: Authorized Signing Officer

ACCEPTED by the Receiver this 20th day of June, 2017

KSV KOFMAN INC., in its capacity as court-appointed receiver of all the real property registered on title as being owned by Scollard Development Corporation and of all the assets, undertakings and properties of Scollard Development Corporation acquired for or used in relation to such real property, and not in its personal capacity or in any other capacity

Per: 
Name: Robert Harlang
Title: Managing Director

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Agreement, all the Receiver's and the Debtor's right, title and interest in and to the property described as the "Purchased Assets" in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the [REDACTED] Report and appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [REDACTED] sworn [REDACTED], 2017, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is commercially reasonable and is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, or as it may direct.
2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Receiver's Certificate"), all the Receiver's and the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement, including without limitation the Lands legally described in Schedule "B" hereto shall vest absolutely in the Purchaser, or as it may direct, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, leases, notices of lease, subleases, licences, restrictions, contractual rights, options, judgments, liabilities (direct, indirect, absolute or contingent), the Unit Purchase Obligations (as

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such term is defined in the Sale Agreement), obligations, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Wilton-Siegel dated February 2, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders and declares that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser, or as it may direct, as the owner of the subject real property identified in Schedule "B" hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "C" hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if

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the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

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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.

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Schedule "A" – Form of Receiver's Certificate

Court File No. CV-17-11689-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT
CORPORATION**

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

RECEIVER'S CERTIFICATE

RECITALS

I. Pursuant to an Order of the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated February 2, 2017, KSV Kofman Inc. was appointed as receiver (in such capacity, the "Receiver"), without security, of all the real property registered on title as being owned by Scollard Development Corporation (the "Debtor") (collectively, the "Lands") and of all the assets, undertakings and properties of the Debtor acquired for or used in relation to the Lands (the "Property").

II. Pursuant to an Order of the Court dated [REDACTED], 2017, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and [REDACTED] (the "Purchaser"), as purchaser, dated [REDACTED], 2017 (the "Sale Agreement"), and provided for the vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, of all the Receiver's and the Debtor's right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be

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effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Receiver.

IV. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The transaction has been completed to the satisfaction of the Receiver; and

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4. This Certificate was delivered by the Receiver at _____ [TIME] on
_____ [DATE].

KSV KOFMAN INC., in its capacity as court-appointed receiver of all the real property registered on title as being owned by Scollard Development Corporation and of all the assets, undertakings and properties of Scollard Development Corporation acquired for or used in relation to such real property, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"
LEGAL DESCRIPTION OF THE REAL PROPERTY

PIN 26484-0005 (LT)

PART OF LOT 8, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 9, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 14, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 15, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. D405505; TOWN OF WHITBY

PIN 26484-0006 (LT)

PART OF LOT 8, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 15, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. CO139720 & PART OF LOT 18, PLAN 40R-10885; SUBJECT TO INSTRUMENT NO. CO139720; TOWN OF WHITBY

PIN 26484-0007 (LT)

PART OF LOT 7, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 16, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. D374163; SUBJECT TO INSTRUMENT NO. CO132238; TOWN OF WHITBY

SCHEDULE "C"
INSTRUMENTS TO BE DELETED FROM PIN NOS.
26484-0005 (LT), 26484-0006 (LT) and 26484-0007 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1297446	2014/09/08	CHARGE	\$13,600,000	SCOLLARD DEVELOPMENT CORPORATION	SCOLLARD TRUSTEE CORPORATION
DR1297450	2014/09/08	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1301869	2014/09/23	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1303201	2014/09/26	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1309302	2014/10/21	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1376600	2015/06/30	CHARGE	\$3,500,000	SCOLLARD DEVELOPMENT CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY
DR1376618	2015/06/30	POSTPONEMENT		OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY

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Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1422316	2015/11/13	NOTICE		SCOLLARD DEVELOPMENT CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY
DR1422354	2015/11/13	POSTPONEMENT		OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY
DR1496316	2016/07/20	CONSTRUCTION LIEN	\$130,111	LEESWOOD DESIGN BUILD LTD.	
DR1511251	2016/08/31	CERTIFICATE		LEESWOOD DESIGN BUILD LTD.	
DR1534483	2016/11/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	GRANT THORNTON LIMITED
DR1541405	2016/11/24	CONSTRUCTION LIEN	\$338,768	IBI GROUP ARCHITECTS (CANADA) INC.	
DR1544472	2016/12/01	CONSTRUCTION LIEN	\$338,768	IBI GROUP PROFESSIONAL SERVICES (CANADA) INC.	
DR1560774	2017/01/23	CERTIFICATE		IBI GROUP PROFESSIONAL SERVICES (CANADA) INC. ET AL.	

**SCHEDULE "D"
PERMITTED ENCUMBRANCES**

Assumed Encumbrances from PIN 26484-0005 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
D492865	1997/05/08	AGREEMENT			THE TOWN OF WHITBY
DR31730	2001/10/29	NOTICE AGREEMENT		MAC'S FUTONS 4-U INC.	THE CORPORATION OF THE TOWN OF WHITBY
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

Assumed Encumbrances from PIN No. 26484-0006 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

Assumed Encumbrances from PIN No. 26484-0007 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

**SCHEDULE B
PERMITTED ENCUMBRANCES**

PART I: GENERAL PERMITTED ENCUMBRANCES

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates to the extent adjusted for under this Agreement;
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes;
3. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including without limitation, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements; provided same have been complied with or security has been posted to ensure compliance and completion as evidenced by a letter from the relevant Authority or regulated utility;
4. Any unregistered easement, right-of-way, agreements or other unregistered interest of claims not disclosed by registered title provided same does not materially impact the Purchaser's intended use of the Property and same have been complied with;
5. Any encroachments or other discrepancies that might be revealed by an up to date plan of survey of the Property;
6. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Property or any part thereof, or materially impair the value thereof;
7. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute; and
8. The following exceptions and qualifications contained in Section 44(1) of the Land Titles Act: paragraphs 7, 8, 9, 10 and 12.

- 2 -

PART II: SPECIFIC PERMITTED ENCUMBRANCES**Assumed Encumbrances from PIN 26484-0005 (LT)**

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
D492865	1997/05/08	AGREEMENT			THE TOWN OF WHITBY
DR31730	2001/10/29	NOTICE AGREEMENT		MAC'S FUTONS 4-U INC.	THE CORPORATION OF THE TOWN OF WHITBY
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

Assumed Encumbrances from PIN No. 26484-0006 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

Assumed Encumbrances from PIN No. 26484-0007 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

**SCHEDULE C
LEGAL DESCRIPTION OF LANDS**

PIN 26484-0005 (LT)

PART OF LOT 8, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 9, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 14, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 15, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. D405505; TOWN OF WHITBY

PIN 26484-0006 (LT)

PART OF LOT 8, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 15, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. CO139720 & PART OF LOT 18, PLAN 40R-10885; SUBJECT TO INSTRUMENT NO. CO139720; TOWN OF WHITBY

PIN 26484-0007 (LT)

PART OF LOT 7, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 16, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. D374163; SUBJECT TO INSTRUMENT NO. CO132238; TOWN OF WHITBY

T A B E

**AGREEMENT OF PURCHASE AND SALE
BOATHAUS - PHASE 2**

UNIT NUMBER _____, RESIDENTIAL UNIT _____, LEVEL _____, as shown on the sketch attached hereto as Schedule "B" (together with _____ Parking Unit(s) and _____ Storage Unit(s), to be designated by the Vendor in the manner provided for herein), on a proposed condominium plan, Whitby, Ontario (the "Municipality").

_____ (the "Purchaser") agrees to and with SCOLLARD DEVELOPMENT CORPORATION (the "Vendor"), to purchase the above-described condominium units and their appurtenant common interest as specified in the Declaration (such above described units and their appurtenant common interest hereinafter collectively called the "Unit"), subject to the by-laws and rules of the condominium corporation (the "Condominium Corporation") to be created upon the registration of the Declaration and description under the Condominium Act, 1998, S.O. 1998 c.19, as amended (the "Act") and situate within a multi-unit low-rise building (the "Condominium") on the following terms and conditions:

PURCHASE PRICE:

The Purchase Price of the Unit shall be _____ DOLLARS (\$) (the "Total Purchase Price") of lawful money of Canada payable to the Vendor as follows:

- (a) \$3,000.00 by cheque with this Agreement payable to the escrow agent, Chaltons LLP in Trust (the "Escrow Agent"), as a deposit to be credited on account of the Purchase Price on closing;
- (b) Upon execution of this Agreement the Purchaser shall also provide the following additional deposits to the Escrow Agent by way of post-dated cheques in the amounts and on the dates described below to be credited on account of the Purchase Price on closing:
 - I. \$ _____ by cheque post-dated 30 days following the date of execution of this Agreement by the Purchaser;
 - II. \$ _____ by cheque post-dated 90 days following the date of execution of this Agreement by the Purchaser;
 - III. \$ _____ by cheque post-dated 180 days following the date of execution of this Agreement by the Purchaser;
 - IV. \$ _____ on interim occupancy of the Unit;
- (c) the balance of the Purchase Price by the Purchaser's solicitor's certified cheque (unless otherwise advised pursuant to the Section titled "Tender" in Schedule "A" of this Agreement), subject to adjustments as provided in this Agreement on the Unit Transfer Date (as hereinafter defined).

The failure of any cheque to clear the bank for any reason shall be a monetary default hereunder.

CLOSING

(a) The Purchaser shall be required to take Occupancy (as defined in the Tarion Addendum and Statement of Critical Dates) of the Unit in accordance with and on the date established pursuant to the provisions of the Tarion Addendum attached hereto which date is referred to herein as the "Occupancy Date".

(b) The purchase and sale of the Unit shall be completed and a transfer of the Unit delivered to the Purchaser in accordance with the terms of this Agreement on a date (the "Unit Transfer Date") that is the later of (i) the Occupancy Date; and (ii) a date fixed by the Vendor upon which the transfer of the Unit acceptable for registration is delivered to the Purchaser or his solicitor.

SCHEDULES NOTED HEREIN AND ATTACHED TO THIS AGREEMENT FORM PART HEREOF.

- SCHEDULE "A" - GENERAL PROVISIONS
- SCHEDULE "B" - SKETCH OF SUITE
- SCHEDULE "C" - FEATURE LIST
- SCHEDULE "D" - WARNING CLAUSES AND NOTICE PROVISIONS
- SCHEDULE "E" - ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE MATERIALS
- TARION ADDENDUM AND STATEMENT OF CRITICAL DATES

DATED this _____ day of _____, 201_____.

Witness: _____

Signature: _____
 Purchaser: _____
 Date of Birth: _____
 Social Insurance No.: _____
 Address: _____
 Phone: _____ Email Address: _____

Witness: _____

Signature: _____
 Purchaser: _____
 Date of Birth: _____
 Social Insurance No.: _____
 Address: _____
 Phone: _____ Email Address: _____

SOLICITORS FOR THE PURCHASER:

The Vendor hereby accepts the above offer.

DATED this _____ day of _____, 201_____.

SOLICITORS FOR THE VENDOR:
 HARRIS + HARRIS, LLP
 2355 Skymark Avenue, Suite 300
 Mississauga, Ontario L4W 4Y6
 Tel# (905) 629-7800 Fax# (905) 629-4350

SCOLLARD DEVELOPMENT CORPORATION

Per: _____ A.S.O.



**Condominium Form
(Tentative Occupancy Date)**

Property Boathaus Residences -
Phase 2

**Statement of Critical Dates
Delayed Occupancy Warranty**

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

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

VENDOR Scollard Development Corporation
Full Name(s)

PURCHASER _____
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 ___ day of _____, 20__.

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

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

For purchase agreements signed after the Roof Assembly Date, the First Tentative Occupancy Date is inapplicable and the Vendor shall instead elect and set either a Final Tentative Occupancy Date or Firm Occupancy Date. the ___ day of _____, 20__.
Final Tentative Occupancy Date

or

the ___ day of _____, 20__.
Firm Occupancy Date

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

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

The Outside Occupancy Date, which is the latest date by which the Vendor agrees to provide Occupancy, is: the ___ day of _____, 20__.

2. Notice Period for an Occupancy Delay

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

(i.e., at least 90 days before the First Tentative Occupancy Date), or else the First Tentative Occupancy Date automatically becomes the Firm Occupancy Date. the ___ day of _____, 20__.

3. Purchaser's Termination Period

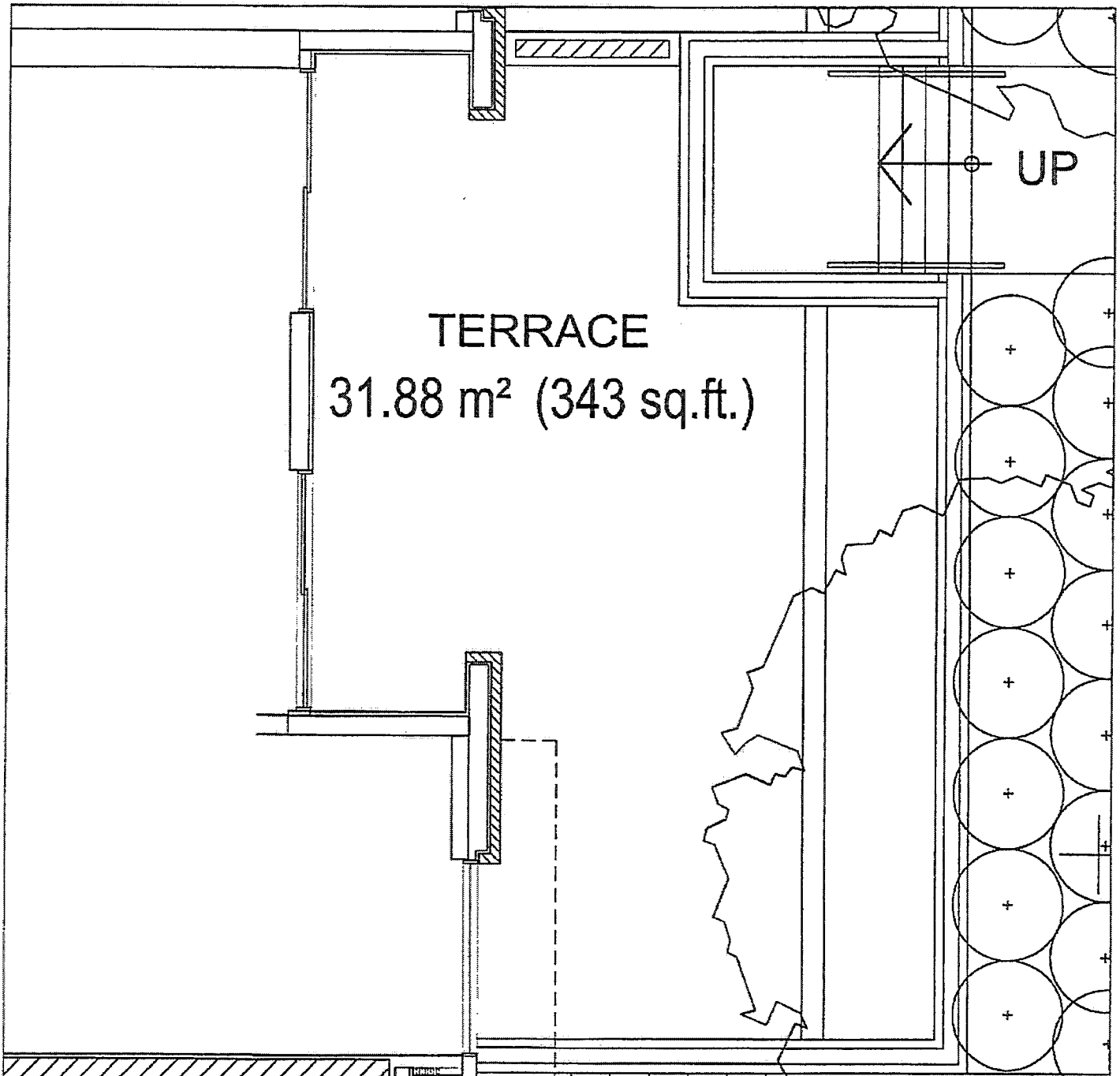
If the home is not complete by the Outside Occupancy Date, then the Purchaser can terminate the transaction during a period of 30 days thereafter (the "Purchaser's Termination Period"), which period, unless extended by mutual agreement, will end on:

If the Purchaser terminates the transaction during the Purchaser's Termination Period, then the Purchaser is entitled to delayed occupancy compensation and to a full refund of all monies paid plus interest (see sections 7, 10 and 11 of the Addendum). the ___ day of _____, 20__.

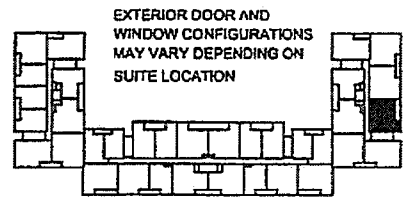
Note: Any time a Critical Date is set or changed as permitted in the Addendum, other Critical Dates may change as well. At any given time the parties must refer to: the most recent revised Statement of Critical Dates; or agreement or written notice that sets a Critical Date, and calculate revised Critical 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 ___ day of _____, 20__.
VENDOR: Scollard Development Corp
[Signature]

PURCHASER: _____



KEYPLAN: TERRACES



TERRACE

BOATHAUS DEVELOPMENT
November 24, 2015



**AGREEMENT OF PURCHASE AND SALE
BOATHAUS - PHASE 2**

UNIT NUMBER _____, RESIDENTIAL UNIT _____, LEVEL _____, as shown on the sketch attached hereto as Schedule "B" (together with _____ Parking Unit(s) and _____ Storage Unit(s), to be designated by the Vendor in the manner provided for herein), on a proposed condominium plan, Whitby, Ontario (the "Municipality").

_____ (the "Purchaser") agrees to and with **SCOLLARD DEVELOPMENT CORPORATION** (the "Vendor"), to purchase the above-described condominium units and their appurtenant common interest as specified in the Declaration (such above described units and their appurtenant common interest hereinafter collectively called the "Unit"), subject to the by-laws and rules of the condominium corporation (the "Condominium Corporation") to be created upon the registration of the Declaration and description under the Condominium Act, 1998, S.O. 1998 c.19, as amended (the "Act") and situate within a multi-unit low-rise building (the "Condominium") on the following terms and conditions:

PURCHASE PRICE:

The Purchase Price of the Unit shall be

_____ DOLLARS (\$ _____)
(the "Total Purchase Price") of lawful money of Canada payable to the Vendor as follows:

- (a) \$3,000.00 by cheque with this Agreement payable to the escrow agent, **Chaitons LLP in Trust** (the "Escrow Agent"), as a deposit to be credited on account of the Purchase Price on closing;
- (b) Upon execution of this Agreement the Purchaser shall also provide the following additional deposits to the Escrow Agent by way of post-dated cheques in the amounts and on the dates described below to be credited on account of the Purchase Price on closing:
 - I. \$ _____⁰ by cheque post-dated 30 days following the date of execution of this Agreement by the Purchaser;
 - II. \$ _____ by cheque post-dated 90 days following the date of execution of this Agreement by the Purchaser;
 - III. \$ _____ by cheque post-dated 180 days following the date of execution of this Agreement by the Purchaser;
 - IV. \$ _____ on interim occupancy of the Unit;
- (c) the balance of the Purchase Price by the Purchaser's solicitor's certified cheque (unless otherwise advised pursuant to the Section titled "Tender" in Schedule "A" of this Agreement), subject to adjustments as provided in this Agreement on the Unit Transfer Date (as hereinafter defined).

The failure of any cheque to clear the bank for any reason shall be a monetary default hereunder.

CLOSING

(a) The Purchaser shall be required to take Occupancy (as defined in the Tarion Addendum and Statement of Critical Dates) of the Unit in accordance with and on the date established pursuant to the provisions of the Tarion Addendum attached hereto which date is referred to herein as the "Occupancy Date".

(b) The purchase and sale of the Unit shall be completed and a transfer of the Unit delivered to the Purchaser in accordance with the terms of this Agreement on a date (the "Unit Transfer Date") that is the later of (i) the Occupancy Date; and (ii) a date fixed by the Vendor upon which the transfer of the Unit acceptable for registration is delivered to the Purchaser or his solicitor.

SCHEDULES NOTED HEREIN AND ATTACHED TO THIS AGREEMENT FORM PART HEREOF.

- SCHEDULE "A" - GENERAL PROVISIONS
- SCHEDULE "B" - SKETCH OF SUITE
- SCHEDULE "C" - FEATURE LIST
- SCHEDULE "D" - WARNING CLAUSES AND NOTICE PROVISIONS
- SCHEDULE "E" - ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE MATERIALS
- TARION ADDENDUM AND STATEMENT OF CRITICAL DATES

DATED this _____ day of _____, 201_____.

Witness: _____

Witness: _____

SOLICITORS FOR THE PURCHASER:

Signature: _____
 Purchaser: _____
 Date of Birth: _____
 Social Insurance No.: _____
 Address: _____
 Phone: _____ Email Address: _____

Signature: _____
 Purchaser: _____
 Date of Birth: _____
 Social Insurance No.: _____
 Address: _____
 Phone: _____ Email Address: _____

The Vendor hereby accepts the above offer.

DATED this _____ day of _____, 201_____.

SOLICITORS FOR THE VENDOR:
HARRIS + HARRIS, LLP
 2355 Skymark Avenue, Suite 300
 Mississauga, Ontario L4W 4Y6
 Tel# (905) 629-7800 Fax# (905) 629-4350

SCOLLARD DEVELOPMENT CORPORATION

 Per: _____ A.S.O.

SCHEDULE "A" - GENERAL PROVISIONSBOATHAUS CONDOMINIUMS – PHASE 2**1. ORAL REPRESENTATIONS**

ORAL REPRESENTATIONS OR WARRANTIES BY THE VENDOR OR ITS AGENTS SHALL NOT FORM PART OF NOR SHALL THEY AMEND THIS AGREEMENT. THE PURCHASER ACKNOWLEDGES HAVING READ ALL PARAGRAPHS AND SCHEDULES OF THIS AGREEMENT.

2. PARKING AND STORAGE UNITS (if applicable)

The Purchaser acknowledges that in the event any Parking Unit(s) (if applicable) and/or Storage Unit(s) (if applicable) are part of the Unit or being purchased by the Purchaser as set out in this Agreement or any amendment hereto, any of the foregoing will be designated by the Vendor prior to the Occupancy Date or the Unit Transfer Date. The Vendor shall have the right in its sole, absolute and unfettered discretion to designate the location of the Parking Unit(s) (if applicable) and/or the Storage Unit(s) (if applicable) and may re-designate any one or more of same from time to time prior to the Occupancy Date or the Unit Transfer Date. The Vendor may give priority as to the location of such units, if any, to persons with special needs as determined by the Vendor in its sole, absolute and unfettered discretion. Parking Units may be adjacent to other Parking Units, walls, columns, beams, other structures, etc. Some Parking Units may be accessible only by the parallel parking of motor vehicles. The Vendor makes no representations or warranties regarding the ceiling height of the Parking Units, the parking garage, garage access ramps or drive aisles or whether certain motor vehicles will be able to access the Parking Units, the parking garage, garage access ramps or drive aisles due to the dimensions of such motor vehicles.

3. COMPLETION OF UNIT

The Unit shall be deemed to be completed for the purposes of Occupancy on the Occupancy Date or any extension thereof when the requirements of Section 9 of the Tarion Addendum and Statement of Critical Dates have been met, and the Purchaser agrees that he shall take occupancy of the Unit on the Occupancy Date and the Vendor shall complete any outstanding details of construction required by this Agreement within a reasonable time thereafter having regard to weather conditions and the availability of supplies or tradesmen. In any event, the Purchaser acknowledges that failure to complete other units within the building in which the Purchaser's Unit is located, or the common elements on or before the Occupancy Date shall not be deemed to be a failure to complete the Unit. The Purchaser agrees to complete this transaction notwithstanding any claims submitted to the Vendor and/or the Ontario New Home Warranties Plan Act (the "Warranty Act") or otherwise in respect of apparent deficiencies or incomplete work.

4. DEPOSITS

(a) The Vendor shall credit the Purchaser with interest at the prescribed rate, as set out in subsection 19(3) of O. Reg. 48/01 of the Act, on either the Firm Occupancy Date or the Closing Date at the Vendor's sole discretion on all money received by the Vendor on account of the Purchase Price from the date of deposit of the money received from time to time by **Chaitons LLP**, Barristers & Solicitors (hereinafter referred to as the "Escrow Agent") until the Firm Occupancy Date. The Purchaser acknowledges and agrees that, for the purposes of subsection 81(6) of the Act, compliance with the requirement to provide written evidence, in the form prescribed by the Act, of payment of monies by or on behalf of the Purchaser on account of the Purchase Price of the Unit shall be deemed to have been sufficiently made by delivery of such written evidence to the address of the Purchaser noted on the TARION Statement and Addendum annexed hereto. The Purchaser further acknowledges and agrees that any cheques provided to the Vendor on account of the Purchase Price will not be deposited and accordingly interest as prescribed by the Act will not accrue thereon, until after the expiry of the ten (10) day rescission period as provided for in Section 73 of the Act (or any extension thereof as may be agreed to in writing by the Vendor). The Purchaser represents and warrants that the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act*, R.S.C. 1985, c. 1 (Canada) ("ITA"). If the Purchaser is not a resident of Canada for the purposes of the ITA, the Vendor shall be entitled to withhold and remit to Canada Revenue Agency ("CRA") the appropriate amount of interest payable to the Purchaser on account of the deposits paid hereunder, under the ITA.

(b) All deposits paid by the Purchaser shall be held by Escrow Agent in a designated trust account, and shall be released only in accordance with the provisions of Section 81(7) of the Act and the regulations thereto, as amended. The Escrow Agent shall be entitled to pay such deposit monies to such other party as may be authorized to hold such monies in accordance with the Act provided that such party confirms and acknowledges that such deposit monies are held in trust by it pursuant to the provisions of this Agreement and the Act. Upon delivery of prescribed security in accordance with the Act to the Escrow Agent and provided the Escrow Agent has obtained prior written consent from the applicable surety of the prescribed security to release the deposit, the Escrow Agent shall be entitled to release the deposits to the Vendor. Upon delivery of such acknowledgment to the Escrow Agent from such other party, as aforesaid, the Escrow Agent shall be entitled to release the deposits to such other party. The Purchaser hereby irrevocably authorizes and directs the Escrow Agent to release the deposit monies as aforesaid and hereby releases and forever discharges the Escrow Agent from any liability in this regard. The foregoing may be pleaded as an estoppel or bar to any future action by the Purchaser. The Purchaser hereby irrevocably appoints the Vendor as his agent and lawful attorney, in the Purchaser's name, place and stead to complete any prescribed security obtained by the Vendor, if any, including without limitation all deposit insurance documentation, policies and receipts and in accordance with the *Powers of Attorney Act*, R.S.O. 1990, c. P.20, as amended ("PAA"), and the Purchaser confirms and agrees that this power of attorney may be executed by the Vendor during any subsequent legal incapacity of the Purchaser. Without limiting the generality of the foregoing, the Purchaser acknowledges that the Escrow Agent is holding deposit funds in trust as an escrow agent acting for and on behalf of the TARION Warranty Program ("TARION") under the provisions of a Deposit Trust Agreement ("DTA") with respect to the Condominium on the express understanding and agreement that as soon as prescribed security

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for said deposit monies has been provided in accordance with the Act and the Escrow Agent has obtained prior written consent from the applicable surety of the prescribed security to release the deposit, the Escrow Agent shall be entitled to release and disburse said funds to the Vendor (or to whomsoever and in whatsoever manner the Vendor may direct).

- (c) The Purchaser acknowledges and agrees that the amounts set out in subparagraph 1(b) shall be required to be paid by post-dated cheque. At the option of the Vendor, the Purchaser shall be required to deliver the balance of the closing funds by way of wire or electronic transfer of funds as may be required by the Vendor and all costs and fees of delivering and wiring the closing funds shall be paid for by the Purchaser, and/or credited in favour of the Vendor, on Closing. In the event the Vendor elects to have the balance of the closing funds delivered by wire or electronic funds transfer system, the Purchaser shall be required to have its solicitor registered as a registered user of such system.

5. INTERIM OCCUPANCY

- (a) The Purchaser shall, subject to any other provisions of this Agreement to the contrary, take possession of the Unit from the Occupancy Date until the Unit Transfer Date, upon the terms set forth in the occupancy provisions herein (which in such instances shall constitute the occupancy agreement), and/or shall execute at the Vendor's option its standard form of occupancy agreement (either occupancy agreement hereinafter called the "Occupancy Agreement"). In the event of a conflict between any term contained in the Vendor's standard form of occupancy agreement and any term contained in the occupancy provisions hereof, the provisions of the Vendor's standard form of occupancy agreement shall prevail.
- (b) On the Occupancy Date, the Purchaser shall deliver a clear and up-to-date execution certificate in respect of the Purchaser's name from the Land Titles Office or Sheriff's Office in the judicial district in which the Unit is situated, or provide the Vendor's solicitor with such other information and documentation as may be required in order to satisfy the Vendor's solicitor, in its sole, absolute and unfettered discretion, that the Purchaser is not one and the same person as any particular execution debtor named in any particular execution on file in the said offices.
- (c) The Purchaser shall pay an occupancy fee (the "Occupancy Fee") monthly, in advance, on the first day of each month, during the period between the Occupancy Date and the Unit Transfer Date, which Occupancy Fee shall be payable pro rata for periods of less than a whole month at the beginning or end of the occupancy period. The Occupancy Fee shall be equal to the maximum amount permitted in section 80(4) of the Act. The Purchaser shall provide any number of postdated cheques with respect to the Occupancy Fee as and when the Vendor may reasonably require same. The Purchaser acknowledges and agrees that any cheques delivered to the Vendor with respect to the Occupancy Fee and which are not negotiated by the Vendor shall, at the sole option of the Vendor, either be destroyed by the Vendor and not be returned to the Purchaser or his solicitor, or be returned by the Vendor to the Purchaser or its solicitor. NO PART OF THE OCCUPANCY FEE SHALL BE CREDITED TOWARDS THE PURCHASE PRICE ON THE UNIT TRANSFER DATE NOR SHALL ANY PART THEREOF BE RETURNED TO THE PURCHASER IN THE EVENT THAT ANY DEPOSIT MONIES ARE TO BE RETURNED TO THE PURCHASER BY REASON OF THE TERMINATION OF THIS AGREEMENT. No adjustment shall be made for fluctuations in those items on which the Occupancy Fee is based other than as required in the Act, save and except as provided for in the following sentences in this subsection. The Vendor reserves the right to charge taxes applicable only to the land to the Purchaser as part of the monthly Occupancy Fee and adjust on the Unit Transfer Date any interim bills paid by the Vendor prior to the Unit Transfer Date. The Purchaser in such event shall still be responsible for all supplementary tax bills resulting from the construction of the Condominium from and after the confirmed Occupancy Date and all realty tax bills after Unit Transfer Date applicable to the Unit.
- (d) The Purchaser covenants and agrees to provide the Vendor's solicitor, at least 60 days prior to the Occupancy Date, with the full names, birth dates, marital status, social insurance number of the Purchaser and any other parties permitted by the Vendor to take title to the Unit, and the address for service to be inserted in the transfer, failing which the Vendor shall be entitled to engross the Occupancy Agreement and the transfer to the Unit in the name of the Purchaser as noted on the front page of this Agreement or as permitted herein, and the Purchaser shall be bound thereby and shall be estopped from requiring any further changes to the manner in which the Occupancy Agreement and/or the transfer are so engrossed.
- (e) The Purchaser agrees to provide the name, address and telephone number of its solicitor and all other information requested or required for the completion of the transaction to the Vendor or its solicitor in writing no later than 60 days prior to the Occupancy Date. If the Purchaser changes solicitors or the Purchaser or its solicitor (i) fail to provide the aforesaid information or required title information; (ii) change or amend any of the information provided, including title information required for engrossing the Occupancy Agreement or the transfer to the Unit as required by the preceding paragraph; or (iii) provide information to the Vendor or its solicitors that is incorrect or amended for any reason, the Purchaser shall be charged a fee as determined by the Vendor plus Applicable Taxes on the Statement of Adjustments.
- (f) The Purchaser agrees to obtain from the Vendor a time of day during which the Purchaser shall be entitled to move into the Unit and to use the elevator(s), corridor(s) and/or stairwell(s) designated for such purposes (as applicable). The Purchaser shall be responsible for all damages to the elevator(s), stairwells and/or corridors (as applicable) as a result of the Purchaser's use and shall provide a security deposit in an amount determined by the property manager payable to the Vendor prior to being granted use of the elevator(s), corridor(s) and/or stairwell(s) (as applicable). If the elevator(s), corridor(s) and/or stairwell(s) (as applicable) are damaged as a result of the Purchaser's use, then the Vendor shall be entitled to retain from such deposit an amount equal to the cost of repair for the damage, and if such cost exceeds the amount of the security deposit then, the Purchaser shall pay to the Vendor the difference, immediately,

failing which an amount equal to such difference shall be paid on the Occupancy Date or the Unit Transfer Date, as determined by the Vendor, together with interest at the rate described in the paragraph headed Default.

6. THE OCCUPANCY AGREEMENT

During the term of the Occupancy Agreement:

- (a) Subject to the provisions hereof, only the Purchaser or members of the Purchaser's immediate family shall have the right to occupy the Unit, for residential purposes only, in accordance with the terms and provisions of the draft condominium documents included in the Disclosure Statement (hereinafter the "Condominium Documents"), and shall comply with same as if they were the owner of the Unit, and shall maintain and repair same in a clean and slightly manner as would a prudent owner, and shall make no change, alteration, or addition to the Unit without the Vendor's prior written consent (which consent may be arbitrarily withheld). The Purchaser acknowledges and agrees that he shall not have access to the Unit prior to the Occupancy Date without the Vendor's prior consent and without being accompanied by a representative of the Vendor;
- (b) The Purchaser shall pay all telephone, cable/satellite television, utility and other expenses for the Unit other than those included as a proposed common expense (including without limitation) any administrative charges imposed by any utility provider as a result of such utility being separately metered;
- (c) The Purchaser shall maintain insurance on any decoration, furnishing or improvement to the Unit as well as for third party liability and shall indemnify the Vendor from any damage to property or injury to persons within or on the Unit or elsewhere if caused by the Purchaser or any person for whose actions the Purchaser may in law be liable;
- (d) The Purchaser's right to occupy the Unit may be terminated by the Vendor if the Purchaser is in default under this Agreement or the Occupancy Agreement, or if this Agreement has been terminated for any reason. If the Occupancy Agreement or this Agreement is terminated, the Purchaser shall vacate the Unit immediately, and shall indemnify the Vendor for any costs incurred in connection with its repossession of the Unit and/or in restoring or repairing the Unit;
- (e) Subject to the provisions hereof, the Purchaser may not assign or sublet the Occupancy Agreement or otherwise part with possession of the Unit, without the Vendor's prior written consent which consent may be arbitrarily withheld; and
- (f) The Vendor shall have the right to enter the Unit at all reasonable times (unless there is an emergency, in which case such right to enter the Unit can be at any time) for the purpose of conducting inspections thereof, for facilitating the registration of the Condominium under the Act, and for correcting and completing any outstanding work with respect to the Condominium.

7. CONSTRUCTION, CHANGES AND DECOR PACKAGES

The Vendor agrees to complete the Unit and common elements in a good and workmanlike manner. The Vendor shall have the right from time to time to make reasonable changes in the opinion of the Vendor in the plans and specifications of the Unit and the Condominium (regardless whether the aforesaid have been submitted to the relevant governmental authority) and any changes required by any relevant governing authority in the plans and specifications of the Unit and the Condominium and every aspect thereof if required and to substitute other material for that provided for under this Agreement or in the plans and specifications of the Unit or the Condominium, provided that such alternative material is of a quality equal to or better than the material hereunder or in the plans and specifications and the Purchaser agrees to complete this transaction notwithstanding same and the Purchaser hereby consents to such changes and substitutions. The Purchaser acknowledges and agrees that the Vendor may insert or add any items, including without limitation, windows, columns, fire walls, conduits, beams and/or bulkheads within or adjacent to the Unit and/or remove, change, delete, vary, alter or modify the number, size and location of any of the foregoing items from the number, size and/or location of same as displayed or illustrated in the Sketch of Suite attached hereto as Schedule "B" or any promotional material or information which may include, without limitation, sales brochure(s), model(s), rendering(s), vignette(s) and/or floor plan(s) previously delivered or shown to the Purchaser or to the public (regardless of the extent or impact thereof). The Purchaser shall have absolutely no claim or cause of action whatsoever against the Vendor or its sales representatives (whether based or founded in contract, tort or in equity) for any such insertions, additions, removals, changes, deletions, variations, alterations or modifications, nor shall the Purchaser be entitled to any abatement or reduction in the Purchase Price whatsoever as a consequence thereof. The Purchaser acknowledges and agrees that the Vendor shall have the right, in its sole, absolute and unfettered discretion to effect the changes to the Condominium contemplated in the Disclosure Statement, to change the proposed (if any) sharing of amenities or other areas with nearby and/or adjacent buildings or condominiums, to change the legal description or the municipal address of the residential unit and the right to change the Condominium's municipal address or numbering of the Units in terms of unit number and/or level number and the number of units in the Condominium as a result of a combination of units, splitting units, adding additional units, removing units and reducing or increasing the height of the Condominium by reducing or increasing the number of floors of the Condominium and altering the exterior design and features of the Condominium, which the Vendor can effect in its sole, absolute and unfettered discretion; provided, however, that the Purchaser's residential unit location on the floor-plate and configuration shall not be altered except as provided herein. The Vendor also reserves the right to move the Purchaser's Unit or floor in the Condominium to a higher or lower floor or level at the Vendor's sole, absolute and unfettered discretion if the Vendor adds or removes floors or levels to the Condominium or makes any other changes to the Condominium. The Purchaser acknowledges and agrees that the construction timetable for the lands adjacent to and/or nearby the Condominium, if applicable, and the type, character, composition, number of buildings and other development matters of the improvements to be constructed thereon will be totally at the discretion and control of the owners thereof. The Purchaser covenants and agrees that in the event that there is a 'material change' permitting the Purchaser to rescind this Agreement pursuant to s.74(6) of the Act, then the Purchaser agrees that its only

recourse against the Vendor is such right of rescission pursuant to the Act and the return of its deposits paid under this Agreement and the Purchaser shall not claim specific performance and/or damages of any kind against the Vendor as a result, notwithstanding any rule of law or equity to the contrary.

The items set out in the Feature List attached hereto as Schedule "C" are included in the Purchase Price. Furnishings, decor, improvements, mirrors, drapes, tracks and wallpaper, if any, described and/or illustrated within any promotional material or information which may include, without limitation, sales brochure(s), model(s), rendering(s), vignette(s) and/or floor plan(s) are for display purposes only and are not included in the Purchase Price. The floor area and dimensions of the represented units relate to units that are located midway in the building and, because the structural, mechanical and architectural elements will differ on a floor by floor basis, the floor area and the dimensions of such units will vary on a floor by floor basis and the Purchaser is notified of the following statement pursuant to the requirements of the applicable Tarion Bulletin: "Floor area measurements were calculated on the middle floor, such that units on lower floors may have less floor space due to thicker structural members, mechanical rooms, etc., while units on higher floors may have more floor space". The Purchaser acknowledges that the Unit may be a reverse mirror image plan of the plan attached hereto as Schedule "B" and that the floor area and dimensions of any room contained thereon or the Unit as represented in any schedules hereto and sales or promotional material or provided by the Vendor's sales agents has been determined in accordance with the provisions of the applicable Builder Bulletin issued pursuant to the Warranty Act, that such calculations and measurements are approximate only, that the net living area of the Unit will differ from the floor area of the Unit determined in accordance with the aforesaid bulletin, that there is no representation or warranty as to the size of the Unit, that the Purchase Price is not based on the floor area of the Unit and that the Purchaser shall not be entitled to an adjustment for same in the event that the actual floor area of the constructed Unit differs from that indicated by the promotional material or provided by the Vendor's agents. Note: Actual usable floor space may vary from the stated floor area. In accordance with the foregoing, and without limiting the generality of the foregoing, all details and dimensions are approximate and are subject to change without notice to the Purchaser. Any reference to ceiling heights in this Agreement or the Schedules attached hereto shall mean the approximate height from unfinished floor slab surface to unfinished ceiling slab surface and such heights will be reduced by sound attenuation features, finishes of floors and ceilings and installations such as bulkheads etc.

The Purchaser's choice of colours and materials shall be from the Vendor's standard samples, in preselected packages determined by the Vendor, if not yet ordered or installed, and provided that colours and materials are available from suppliers. Without limiting the generality of the foregoing, any of the foregoing selection of features and finishes made by the Purchaser in accordance with this Agreement shall be subject to the availability thereof at the time that the Vendor is prepared to install same and if any selected feature or finish is not then available, the Purchaser will then be required to re-select from any additional standard samples then available from the Vendor, again subject to the requirement of further re-selection in the event that the additional selection(s) made by the Purchaser are also not available as described above. The Purchaser agrees to select the colour and material within 10 days after notification by the Vendor; otherwise the Vendor reserves the right to choose the colour and material to complete the dwelling and the Purchaser agrees to close the transaction with the Vendor's choice of colour and material. In addition, the Purchaser shall select its appliances no later than 10 days after the date on which it has chosen the aforesaid colour and material, failing which the Vendor shall be entitled to select the appliances (including the colour thereof).

The Vendor is not responsible for shade difference occurring in the manufacture of items such as, but not limited to, finishing materials or products such as countertops, flooring and floor coverings, cladding, roof coverings, bath tubs, water closets, sinks and other such products where the product manufacturer establishes the standard for such finishes. The Vendor is also not responsible for colour variations in any products or finishes on products such as but not limited to floor coverings, stone, wood, laminate, cabinets, shelves, railings, spindles, trim as well as stains or finishes applied to any of the aforesaid which colours may vary when finishes are applied to them. Nor shall the Vendor be responsible for shade difference in colour of components manufactured from different materials but which components are designed to be assembled into either one product or installed in conjunction with another product such as but not limited to toilet seats, toilets, tubs, cabinet finishes and paint and in these circumstances the product as manufactured shall be accepted by the Purchaser. The Purchaser acknowledges that where adjoining rooms have different flooring materials, there may be installed thresholds between the different types of flooring and that the height of the floors may vary.

The Purchaser covenants and agrees that the Purchaser shall pay to the Vendor in advance for all extras, upgrades or changes, and Applicable Taxes in addition thereto, ordered by the Purchaser at the time such order is made and the Purchaser further acknowledges and agrees that such payment is non-refundable in the event that this transaction is not completed due to a default, fault, action or inaction of the Purchaser. Notwithstanding anything herein contained to the contrary, the Purchaser acknowledges and agrees that if, upon the Unit Transfer Date, any of the extras, upgrades or changes ordered by the Purchaser remain incomplete in whole or in part or if the Vendor shall, in its sole discretion, determine that it will not provide extras, upgrades or changes or cannot complete the extras, upgrades or changes then there shall be refunded to the Purchaser upon the Unit Transfer Date that portion of the amount paid by the Purchaser in connection with such extras, upgrades or changes allocated to those extras, upgrades or changes which remain incomplete in whole or in part as aforesaid, as determined by the Vendor. The Purchaser further acknowledges and agrees that the amount so paid to the Purchaser (or for which, in the alternative, the Purchaser receives credit in the statement of adjustments) 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. The Purchaser further acknowledges that the Vendor's liability with respect to such incomplete extras, upgrades or changes shall be limited to the return of the amounts referred to aforesaid and, thereafter, there shall be no further liability upon the Vendor in connection with such incomplete extras, upgrades or changes and upon such payment being made or credit being given, the Vendor shall be deemed to have been released from any and all obligations, claims or demands whatsoever with respect to such incomplete extras, upgrades or changes. If the Purchaser neglects to advise the Vendor forthwith upon request as to the Purchaser's selection of finishing specifications, or orders any extras, upgrades in interior finishings, or performs any work in or about the Unit which causes delay on the Vendor's construction operations, the Vendor may require the Purchaser to take occupancy of the Unit and complete this transaction on the Unit Transfer Date herein set out without holdback of any part of the Purchase Price, on the Vendor's undertaking to complete any one of the Vendor's outstanding work from time to time. On occasion, certain extras/upgrades may be installed by the Vendor after the Occupancy Date at the Vendor's discretion.

The Purchaser acknowledges that the distance and views from the proposed building shown on any site plan, marketing materials, signs, artists renderings or scale model are approximate only and/or may be modified before and/or during construction. The Purchaser acknowledges and agrees that the Vendor may, at its sole, absolute and unfettered discretion, make alterations, changes, additions or deletions to anything, including without limitation any buildings, structures and improvements, included or depicted on any such site plan, marketing materials, signs, artists renderings or scale model. The Purchaser further acknowledges that the Vendor shall only be required to provide the amenities as specifically set out in the Condominium Documents (and subject to the modifications permitted therein), notwithstanding any artist renderings, models, displays, any advertising or marketing material or otherwise to the contrary.

The Purchaser acknowledges that the consumption of electricity in the residential units shall be separately metered or check or consumption metered on a per unit basis with each residential unit owner being responsible for the cost of such utility consumed in his residential unit, in addition to and not as part of the common expenses payable by such owner. If requested by the Vendor, the Purchaser covenants and agrees to execute and deliver to the Vendor prior to the Occupancy Date or thereafter such documentation as is required to facilitate the separate metering, check or consumption metering and per unit billing of such utility.

The Purchaser acknowledges that the consumption of water in the residential units shall be separately metered or check or consumption metered on a per unit basis with each residential unit owner being responsible for the cost of such utility consumed in his residential unit, in addition to and not part of the common expenses payable by such owner. If requested by the Vendor, the Purchaser covenants and agrees to execute and deliver to the Vendor prior to the Occupancy Date or thereafter such documentation as is required to facilitate the separate metering, check or consumption metering and per unit billing of such utility.

The Purchaser acknowledges that the consumption and/or use of heating and/or cooling in the residential units shall be separately metered or check or consumption metered on a per unit basis with each residential unit owner being responsible for the cost of such utility consumed in his residential unit, in addition to and not part of the common expenses payable by such owner. If requested by the Vendor, the Purchaser covenants and agrees to execute and deliver to the Vendor prior to the Occupancy Date or thereafter such documentation as is required to facilitate the separate metering, check or consumption metering and per unit billing of the heating and/or cooling.

Notwithstanding anything herein, the Vendor reserves the right to bulk meter any utility which is described herein as being separately, check or consumption metered and the Purchaser is specifically put on notice of same. Further, and notwithstanding anything herein, the Vendor reserves the right to separately meter / check meter / consumption meter any utility which was not previously described herein as being separately, check and/or consumption metered and the Purchaser is specifically put on notice of same. The Purchaser covenants and agrees, prior to the Occupancy Date or thereafter, to execute and deliver to the Vendor such documentation as may be required by the Vendor for the separate, check or consumption metering and billing of a utility which documentation may include, without limitation, a contract(s) with the provider of a utility and/or the party monitoring the consumption of a utility or an assumption agreement(s) with regards to such contract(s). The Purchaser further covenants and agrees to pay to Vendor (or as it may otherwise direct) the cost in respect of the provision and installation of a meter for any utility servicing the Unit which was not previously described herein as being separately, check and/or consumption metered plus Applicable Taxes as an adjustment on the Occupancy Date or on the Unit Transfer Date if so required by the Vendor.

8. WARRANTY

Notwithstanding what may otherwise be expressed in this Agreement, the Vendor covenants that on the Occupancy Date a written warranty in the Warranty Act standard form will be requested by the Vendor from the administrator of the Warranty Act. The Purchaser agrees to accept such warranty in lieu of any other warranty or guarantee, expressed or implied, it being understood and agreed that there is no representation, warranty, guarantee, collateral agreement or condition precedent to, concurrent with, or in any way affecting this Agreement or the subject land or Unit other than as expressed in the Warranty Act.

Notwithstanding the foregoing or anything contained in the said warranty, the Purchaser waives any right to any claim against the Vendor for damage to any ceilings or walls due to normal shrinkage and the Purchaser agrees that this Agreement may be pleaded by the Vendor in estoppel of any such claims by the Purchaser.

The Purchaser hereby releases the Vendor from any liability whatsoever in respect of water damage caused to the Purchaser's improvements, if any, and chattels stored in the Unit, and acknowledges and agrees that the Vendor shall not be liable or responsible for any damage to improvements, chattels or décor caused by shrinkage, twisting or warpage, nor for any secondary or consequential damages whatsoever resulting from any defects in materials, design or workmanship related to the Unit and/or Condominium, nor for any item requiring rectification or completion in respect of which the Purchaser has attempted to complete or rectify on his own, and the Vendor's only obligation shall be to rectify any defects pursuant to the terms of this Agreement. The Purchaser agrees to remove at his expense any finishes and/or improvements made by the Purchaser as requested by the Vendor in order to enable the Vendor to do any completion or rectification work. In addition, if the Purchaser orders the installation of engineered wood flooring or a similarly offered product within the kitchen, the Purchaser acknowledges and agrees that product warranties and responsibilities of the Vendor will not extend to: (a) water damage; (b) damage from the installation and/or movement of appliances; and (c) other kitchen related issues arising from such installation.

9. INSPECTION OF UNIT

- (a) The Purchaser or its designate shall inspect the Unit (such inspection hereinafter referred to as the "PDI") immediately prior to the Occupancy Date with a representative of the Vendor at a time appointed by the Vendor and the parties shall indicate on the face of the Warranty Act's Certificate of Completion and Possession Form (the "Certificate"), the approval of the Purchaser, which shall be subject only to the completion of seasonal work, and any items of a similar nature uncompleted, and listed thereon, and save as to such list the Purchaser shall be conclusively deemed to have accepted the Unit as complete in accordance with this Agreement. On or before the PDI, the Vendor shall provide the Purchaser with a

Homeowner Information Package that is available from the Tarion Warranty Corporation ("Tarion"). The Vendor will complete all matters set out in the said Certificate as soon as reasonably practicable. Further, the Vendor agrees to rectify any defects in materials or workmanship covered by the Warranty Act's warranty issued to the Purchaser as soon as reasonably practicable after the same will have been called to the Vendor's attention by notice in writing and in accordance with the guidelines of Tarion. Except for the aforementioned inspection with the Vendor's representative, the Purchaser shall not enter (and shall not direct or cause anyone to enter) the Property until the Purchaser has completed his obligations under this Agreement on the Occupancy Date. The Purchaser shall provide the Vendor with written notice, at least 5 days prior to the date designated by the Vendor for the PDI, irrevocably appointing the Purchaser's designate, if any. The Purchaser acknowledges that: a Homeowner Information Package is available from Tarion; the Vendor has/will deliver to the undersigned a Homeowner Information Package as provided by Tarion on or before the date of the PDI; and the Purchaser shall execute any confirmation or statements confirming receipt of the Homeowner Information Package in accordance with Tarion's requirements.

- (b) The completion of the foregoing inspection and the preparation and endorsement of the Certificate are conditions of the Vendor's obligation to give occupancy of the Unit and to complete this transaction. Failure by the Purchaser to attend at the appointed time for the inspection and to complete the Certificate shall be deemed to be a default by the Purchaser under this Agreement. The Vendor, at its sole option, may thereupon either terminate the transaction in accordance with the provisions set out in the paragraph(s) headed Default herein, or may elect to complete the Certificate on behalf of the Purchaser. The Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor or any of its authorized signing officers to be and act as his lawful attorney in the Purchaser's name, place and stead for this purpose.

10. DAMAGES BEFORE CLOSING

The Unit shall be and remain at the risk of the Vendor until the Unit Transfer Date, and pending completion of the sale the Vendor will hold all insurance policies and the proceeds thereof in trust for the parties as their interests may appear. In the event that the Unit or the building of which the Unit forms a part are substantially damaged or destroyed, and the Vendor's lender requires that insurance proceeds be applied to reduce its loan rather than to the reconstruction of the Unit or building and the Vendor does not have alternative financing arrangements satisfactory to the Vendor, in its sole, absolute and unfettered discretion, then the Purchaser and Vendor agree that such event shall constitute a frustration of this Agreement and the Purchaser's deposits shall be returned to the Purchaser with interest as required by law, without deduction, and the Vendor shall not be liable for any costs and/or damages incurred by the Purchaser thereby whatsoever, whether arising from (or in connection with) the termination of the Purchaser's existing occupancy of the Unit, or the termination of this transaction, by virtue of the frustration of this contract.

11. ACCESS BY VENDOR FOR MAINTENANCE AND COMPLETION

- (a) Notwithstanding the transfer of title to the Unit to the Purchaser, or occupancy of the Unit by the Purchaser, the Vendor or its duly authorized agents shall have free access at all reasonable times (unless there is an emergency, in which case such access can be at any time) to the Unit in order to make inspections or do any work or repairs thereon which may be deemed necessary in connection with the completion of the Unit or other units and the common elements in the Condominium or of any servicing or installations in connection with either the Unit or the common elements and this right shall be in addition to any rights and easements in favour of the Vendor under the Act.
- (b) The Purchaser shall not interfere with the completion of other units and the common elements by the Vendor. Until the Condominium is completed and all units sold, both in other phases of the condominium, if any, and in other condominium plans, as applicable, the Vendor may make such use of the Condominium as may facilitate such completion and sale, including, but not limited to the maintenance of a sales office, signs and model units, the showing of unsold units and the display of signs. The Purchaser covenants and agrees for itself and its agents and permitted assigns that they shall not enter the Unit or the common elements prior to the Occupancy Date except as approved or required by the Vendor.

12. ACCEPTANCE OF TITLE BY PURCHASER

The Purchaser agrees that the Unit and the property shall be subject to all registered restrictions and agrees to accept title to the Unit and the property subject to all the rights and easements now registered or to be registered hereafter against the Unit, the common elements and/or the property for the supply and installation of telephone and other communication services, electricity, gas, sewers, water, heating, cooling, television cable or satellite facilities and other services; provided that if such rights and easements have not been determined when the Purchaser receives a transfer, such transfer will contain a covenant by the Purchaser to grant such rights and easements and/or confirm same upon the written request of the Vendor, and the Purchaser shall, if requested, execute such transfer or transfers as the Vendor shall require and submit same, provided the title is good and free from all encumbrances except:

- (a) as aforesaid;
- (b) the Declaration, Description, and By-Laws, notwithstanding that they may be amended or varied from the proposed Condominium Documents given to the Purchaser when entering this Agreement;
- (c) any easements, rights-of-way, easement agreements, development agreements, subdivision agreements or site plan agreements and any other agreements with the Municipality or regional municipality or other governmental authority having jurisdiction, applicable by-laws whether registered or not, provided that the Vendor is in compliance thereof;
- (d) any easements, rights-of-way, crane swing agreements, limiting distance agreements, tie-back

agreements, cost sharing agreements, easement and cost sharing agreements and/or reciprocal agreements, operating agreements, restrictions, restrictive covenants, encroachment agreements, conditions or covenants that run with the land, and subject to all rights, licences, and easements or agreements now registered or to be registered for the installation and maintenance of any public, private or other utility and/or utility including, without limitation, telephone, internet, electricity, gas, sewer, water, heating, cooling, cable, satellite or transit;

- (e) any easements, rights-of-way, crane swing agreements, tie-back agreements, licences, or agreements with or required by the Municipality or regional municipality or other tier of municipal government having jurisdiction with respect to future services to be installed or for other purposes;
- (f) temporary easements, licenses or other rights in favour of the Vendor and/or its affiliates and/or the Vendor's assigned successors for construction and sales of this Condominium and any development in the vicinity thereto;
- (g) any easements or licences for the installation of the maintenance of public, private or other utilities and/or services including, without limitation, telephone, electricity, gas, sewer, water, cable, satellite or transit, as well as any rights, easements and interests in land reserved by the Vendor. The Purchaser shall execute any easements required for the said purposes upon being requested by the Vendor both before or after closing. The Purchaser acknowledges that the Deed or Transfer of the Unit may reserve such rights and easements;
- (h) official plan and zoning amendments passed by the municipal corporation or regional municipality or other tier of municipal government having jurisdiction;
- (i) any agreement(s), easement(s), covenants and restrictions between or among the Vendor on its behalf and on behalf of the owner(s) of improvements constructed or to be constructed on lands adjoining or in the vicinity of the subject property;
- (j) any agreement or lease agreement between the Condominium Corporation or the Vendor and any provider of a service(s) for the Condominium or the unit owners in the Condominium;
- (k) any lease agreement between the Condominium Corporation and any provider of equipment and/or systems for the Condominium;
- (l) any licence agreements, easements or other agreements, arrangements or relationships with an automobile sharing company or other entity offering automobile sharing services to the residents of the Condominium or to the public;
- (m) as herein expressly provided; and
- (n) as to minor breaches in any of the foregoing that have been remedied or are in the process of being remedied as established by a statutory declaration of an officer or director of the Vendor.

The Purchaser agrees that the retention by the relevant authority of security that is satisfactory to such authority intended to guarantee fulfilment of any outstanding obligations under any of the aforementioned agreements shall be deemed to be satisfactory compliance with the terms and provisions of the agreements. It is understood and agreed that the Vendor shall not be obliged to obtain or register on title to the Unit or property a release of (or an amendment to) any of the aforementioned development agreements, site plan agreements, subdivision agreements, easements, easement and cost sharing agreements, reciprocal agreements or restrictive covenants, nor shall the Vendor be obliged to have any of the same deleted from the title to the property. The Purchaser shall satisfy himself as to the Vendor's due compliance with the provisions of any such agreements, licences, restrictions or easements listed herein. The Purchaser further agrees to accept the Vendor's solicitors' undertaking to discharge any mortgages, debentures, liens or encumbrances (the "Encumbrances") against the Unit or Common Elements that the Purchaser is not assuming and to close notwithstanding such mortgages, liens or encumbrances. In any event, the Vendor shall not be required to discharge the Unit from the Encumbrances until such time as the Purchaser has paid to the Vendor the Purchase Price for the Unit in full.

The Purchaser acknowledges and agrees that deposits paid hereunder shall be deemed to be monies held in trust pursuant to the provisions of Section 81 of the Act, and the Purchaser shall therefore be deemed to be a "home buyer" within the meaning of s.1 (1) of the Construction Lien Act of Ontario and the Purchaser shall not be entitled to request or demand that any holdback for construction liens be maintained for any portion of Purchase Price on the Occupancy Date or on the Unit Transfer Date.

The Vendor shall be entitled to insert in the transfer specific covenants by the Purchaser pertaining to such restrictions, easements, covenants or agreements referred to in this Agreement, and in such case the Purchaser shall be required to execute the transfer prior to the Unit Transfer Date, or the Vendor may require that the Purchaser deliver his separate written covenant on the Unit Transfer Date. In the event that the Vendor is not the registered owner of the Unit, the Purchaser agrees to accept a conveyance of title from the registered owner in lieu of the Vendor's.

The Purchaser agrees to accept title to the Unit subject to any easements or licences for the installation of the maintenance of public, private or other utilities and/or services including, without limitation, telephone, electricity, gas, sewer, water heating, cooling, satellite, cable or transit, as well as any rights, easements and interests in land reserved by the Vendor that do not materially affect the use of the Unit for residential purposes. The Purchaser shall execute any easements required for the said purposes upon being requested by the Vendor both before or after closing. The Purchaser acknowledges that the Deed or Transfer of the Unit may reserve such rights and easements.

13. VENDOR'S COVENANTS

The Vendor hereby covenants as follows:

- (a) to take all reasonable steps to sell the units within the Condominium without delay except for the units that the Vendor intends to lease;
- (b) to take all reasonable steps to deliver to the Purchaser a registerable deed or transfer of the Unit without delay; and
- (c) to hold in trust for the Condominium Corporation the money, if any, that the Vendor collects from the Purchaser on behalf of the Condominium Corporation.

The covenants of the Vendor in this paragraph contained shall constitute the covenants of the Vendor pursuant to subsection 78(1) of the Act and are hereby understood and agreed to be the extent of the Vendor's obligations in that regard and it is understood and agreed that there are no further obligations or covenants in that regard other than those specifically stated above. The Purchaser acknowledges that the Vendor may from time to time lease any and all unsold units in the Condominium.

14. EXAMINATION OF TITLE BY PURCHASER

The Purchaser shall not call for the production of any title deeds or abstracts of title, survey sketch or other proof or evidence of title, nor have furnished any copies thereof. The Purchaser shall be allowed until 10 days prior to the Unit Transfer Date to examine the title at his own expense. If within that time he shall furnish the Vendor in writing with any valid objections to the title which the Vendor shall be unable or unwilling to remove and which the Purchaser will not waive, this Agreement shall, notwithstanding any intervening acts or negotiations in respect of such objections, be void and the deposit money shall be returned to the Purchaser without interest except as may be required by law and without deduction and the Vendor shall not be liable for any costs or damages. 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 Unit. The Purchaser acknowledges and agrees that the Vendor shall be entitled to respond to some or all of the requisitions submitted by the Purchaser through the use of a standard title memorandum or title advice statement prepared by the Vendor's solicitors and that the same shall constitute satisfactory manner of responding to the Purchaser's requisitions. Further, the Purchaser agrees that in the event that any valid requisition is not sufficiently answered by the Vendor, then the requisition shall be deemed sufficiently answered if a title insurance policy, available for issuance to the Purchaser by any company which issues title insurance policies in Ontario, would insure over the title matter which is being requisitioned.

15. ADJUSTMENTS

The balance due on the Occupancy Date shall be adjusted on the Occupancy Date (or adjusted on the Unit Transfer Date if so required by the Vendor) as to all prepaid and accrued expenses or charges and as to other items required by the terms of this Agreement (plus Applicable Taxes) which shall include, without limiting the generality of the foregoing, the following:

- (a) contribution towards the common expenses and any adjustment of Occupancy Fees as of the Unit Transfer Date, if applicable;
- (b) an amount equal to 2 months of common expenses for the Unit shall be paid directly to the Condominium Corporation on closing and deposited to the reserve fund of the Condominium Corporation. Such sum shall be in addition to any common expenses otherwise payable to the Condominium Corporation and shall not in any way reduce the common expenses owing by the Purchaser to the Condominium Corporation. The Purchaser agrees to deliver on the Unit Transfer Date and specifically as directed by the Vendor either (a) a series of twelve post-dated cheques, or (b) a pre-authorized payment form; in an amount estimated by the Vendor to be payable monthly to the Condominium Corporation on account of common expenses;
- (c) any other prepaid or current expense, such as gas, electricity, fuel, water, heating and cooling which shall be adjusted by attributing to the Purchaser's unit its share of such expenses, as determined by its proportionate contribution to the common expenses or which are assessed against the Unit directly, and any charges paid by the Vendor to a utility which is attributable to the Unit and/or the Condominium, including, without limitation, any charges and deposits (which shall be adjusted equally among the residential units) for the connection or energization (which may include infrastructure or other costs for the provision of any of the following) of any of water, sewage, gas, electricity, heating and cooling services to the Unit and/or Condominium, or the installation of a meter for same and the cost of such meters, notwithstanding that the Purchaser shall not own such meter, unless such charges are included in common expenses.
- (d) realty taxes (including local improvement rates) on the Unit. Realty taxes shall be estimated by the Vendor for the calendar year in which this transaction is completed and the following calendar year where the Vendor has posted security for such taxes or has been advised by the applicable authority that taxes will be billed to its account for such following year and realty taxes shall be adjusted as if such sum had been paid by the Vendor notwithstanding that the same may not by the Occupancy Date have been levied or paid, subject, however, to readjustment upon the actual amount of said realty taxes being ascertained, and the Purchaser shall forthwith pay to the Vendor any balance owing to the Vendor upon receiving notice in writing thereof and the Vendor shall forthwith return to the Purchaser any balance owing to him. If realty taxes are owing for a period when the Condominium was assessed and taxed as one structure and not as individual units, then the adjustment of realty taxes shall include an amount calculated to attribute a portion of such realty taxes owing on the Condominium to the Purchaser's Unit based on its common interest or alternately, equally among all of the residential dwelling units or in such other manner as the Vendor may elect, acting reasonably. Alternatively and at the Vendor's option realty taxes shall not be adjusted until individual unit assessments have been made.

- (e) the transaction levy surcharge imposed upon the Vendor or its solicitors by the Law Society of Upper Canada plus Applicable Taxes;
- (f) the enrolment fee paid by the Vendor for the Unit under the Warranty Act;
- (g) the cost in respect of the provision and installation of an electricity, water, and heating and/or cooling meter for the Unit;
- (h) all deposits paid to the Vendor hereunder, together with interest to be paid/credited to the Purchaser in accordance with the provisions of the Act;
- (i) a \$250.00 administrative fee plus Applicable Taxes shall be charged to the Purchaser for any direct deposit or cheque paid for a deposit, the monthly occupancy fee or for any upgrades which are not honoured or accepted by the Purchaser's bank for any reason, including, without limitation, a cheque returned N.S.F. or upon which a "stop payment" has been ordered;
- (j) if the Purchaser is not a resident of Canada for the purposes of the ITA, the Vendor shall be entitled to withhold and remit to the CRA the appropriate amount of interest payable to the Purchaser on account of his deposits paid hereunder, in accordance with the ITA;
- (k) the charge with respect to the provision of a status certificate;
- (l) any increase after the date of execution of this Agreement by the Purchaser in any levy, payment, contribution, charge, fee or assessment, including without limitation, any parks levies, development charges, education development charges, cash in lieu of parkland dedication payments, public art contributions and/or impost charges (collectively, the "Existing Levy") required, assessed, charged or imposed as of that date by the Municipality, a regional municipality, a transit authority, a public or separate school board or any other authority having jurisdiction under the Development Charges Act, the Education Act, the Planning Act and any other existing or new legislation, bylaw and/or policy of a similar nature and/or if any of the aforesaid authorities require, assess, charge or impose a new or any other levy, payment, contribution, charge, fee or assessment (collectively referred to as the "New Levy") under the Development Charges Act, the Education Act, the Planning Act and any other existing or new legislation, bylaw and/or policy of a similar nature after the date of execution of this Agreement by the Purchaser then, the Purchaser shall pay the increase to the Existing Levy and/or amount of the New Levy, as the case may be, as an adjustment on the Unit Transfer Date plus Applicable Taxes exigible thereon. If the increase to the Existing Levy or the amount of the New Levy is assessed against, charged or imposed against the Condominium as a whole and not against the whole or any part of the Unit separately, then the Vendor shall be entitled to a reimbursement for the foregoing, as may be apportioned by the Vendor in accordance with Section 15(d) above. The Purchaser shall be responsible for all monthly realty tax reassessments and/or supplementary tax bills relating to the Unit subsequent to the Occupancy Date or the Unit Transfer Date if there is no Occupancy Date. The amount of the adjustment pursuant to this paragraph shall not exceed the amount of Five Thousand Dollars (\$5,000.00) for a studio, one bedroom or one bedroom plus den or Eight Thousand Dollars (\$8,000.00) for a two bedroom or two bedroom plus den.
- (m) a \$150.00 administrative fee plus Applicable Taxes shall be charged to the Purchaser for each sum that the Vendor permits to be paid to the Vendor's solicitor on account of the Purchase Price for the Unit by wire transfer or direct deposit. All payments by wire transfer or direct deposit shall be made in strict accordance with the provisions of the Vendor's solicitors' wire transfer and direct deposit form, which may be amended by the Vendor's solicitors from time to time. Without derogation from any other right or remedy of the Vendor, if such form is not complied with and a wire transfer or direct deposit is made on account of the Purchase Price, the Purchaser shall pay an additional adjustment of \$150.00, plus Applicable Taxes, as an administrative fee per occurrence;
- (n) a \$250.00 administrative fee plus Applicable Taxes shall be charged to the Purchaser for each deposit cheque in the possession of the Escrow Agent that the Vendor permits to be: (i) exchanged for a replacement cheque or (ii) deposited on a later date than the date indicated on the face of said cheque;
- (o) 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 Unit (the "Electricity Provider"), on the Electricity Provider's form, for the provision and/or metering of electricity services to the Unit. 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 Occupancy Date;

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 Unit (the "Water Provider"), on the Water Provider's form, for the provision and/or metering of water services to the Unit. 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 Occupancy Date; and

if requested by the Vendor or the Heating and/or Cooling Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of heating and/or cooling and/or the party monitoring consumption of heating and/or cooling to the Unit (the "Heating and/or Cooling Provider"), on the Heating and/or Cooling Provider's form, for the provision and/or metering of heating and/or cooling services to the Unit. The fees, costs and charges (including, without limitation, any rental

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deposit, administration, commodity and non-commodity fees/charges) for the provision and/or metering of heating and/or cooling services shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Occupancy Date.

The Vendor may reserve a Vendor's Lien, following the Vendor's usual form, for unpaid purchase monies or adjustments or claims herein provided together with the interest thereon as provided for herein, and the Purchaser covenants and agrees to forthwith pay all costs in relation to said Vendor's Lien including, without limitation, the Vendor's solicitor's legal fees and disbursements and the cost to register said Vendor's Lien on title to the Unit. 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 \$100.00 plus Applicable Taxes.

If any of the adjustments to be made on the Occupancy Date cannot be accurately determined at the time of occupancy, then the Vendor may estimate the adjustment to be made. There shall be a later and final adjustment when all the items to be adjusted can be accurately determined by the Vendor. The Purchaser agrees with the Vendor to pay all monies payable under this Agreement in the manner directed by the Vendor or its solicitor. Save and except for any adjustments required pursuant to the Act, the Vendor and the Purchaser shall not be obliged to make any readjustment of any item in the event that such readjustment is equal to or less than \$25.00.

The Purchaser and Vendor agree that the harmonized sales tax (the "HST") applies to this transaction and the Purchase Price includes the HST, net of the federal and Ontario new housing rebates or the like (collectively the "Rebate"). The Purchaser shall assign in a form required by the Vendor and/or by any of the Government of Canada, Government of Ontario and/or any other governmental and/or tax authority (collectively, the "Government") to the Vendor all of its right, title and interest in the Rebate to which the Purchaser is entitled. In connection with such assignment, the Purchaser shall deliver to the Vendor, upon request by the Vendor, on or after the Occupancy Date, such application, documents and affidavits as may be required by the Vendor and/or the Government to establish the Purchaser's entitlement to the Rebate. If the Purchaser is not entitled to the Rebate for any reason whatsoever or if the Rebate is reduced or withdrawn by the Government and not replaced with an amount equivalent to the amount of the Rebate to which the Purchaser is entitled by the Government or if the Rebate is not or cannot be assigned to the Vendor or the Rebate is claimed and payment/credit of the Rebate to the Vendor is denied by the Government then, the Purchaser shall forthwith upon demand by the Vendor pay to the Vendor an amount equal to the Rebate or the amount so reduced or withdrawn and until so paid, the amount of the Rebate shall form a charge against the Unit which charge shall be recoverable by the Vendor in the same manner as a mortgage in default. If the Vendor does not receive the full benefit of the Rebate for any reason whatsoever, whether or not as a result of the Purchaser's acts or omissions, the Purchaser shall indemnify and save the Vendor harmless in the amount that the Vendor would have been entitled to had such Rebate been received, together with all interest and penalties thereon, and all losses, costs, damages and liabilities which the Vendor may suffer, incur or be charged with in connection therewith, as a result of the Purchaser's failure to qualify for the 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), which indemnity shall survive the Unit Transfer Date. Notwithstanding anything herein contained to the contrary, the Vendor shall have the right to register a Vendor's Lien for the amount of the Rebate against the Unit immediately following the Unit Transfer Date to secure the Vendor's entitlement to the Rebate as herein provided. The Purchaser acknowledges and agrees that the Purchaser shall not be entitled to any refund, credit or abatement in any manner whatsoever should the HST, or any portion thereof, not apply to this transaction for any reason whatsoever. The HST that is included in the Purchase Price is based on the federal portion and the provincial portion of the HST at the rates of 5% and 8%, respectively. If either or both of the rates increase, the Purchaser shall be responsible for the increase and shall pay same as an adjustment on the Unit Transfer Date, and if either or both of the rates decrease, the Purchaser shall not be entitled to any abatement or reduction of the Purchase Price. Notwithstanding that the Purchase Price is inclusive of the HST net of the Rebate as aforesaid, the Purchaser, shall, at the Purchaser's own cost and expense, be responsible for the payment of the HST and all other taxes, value added taxes, sales taxes, use taxes or transfer taxes and any increases thereof which may be applicable (collectively the "Applicable Taxes") on all closing adjustments and amounts payable for extras, changes, upgrades, fees and charges.

If the Vendor believes, for whatever reason, that the Purchaser does not qualify for the Rebate, regardless of any documentation provided by or on behalf of the Purchaser (including any statutory declaration sworn by the Purchaser) to the contrary, and the Vendor's belief or position on this matter is communicated to the Purchaser or the Purchaser's solicitor on or before the Unit Transfer Date, then notwithstanding anything hereinbefore or hereinafter provided to the contrary, the Purchaser shall be obliged to pay to the Vendor (or to whomsoever the Vendor may in writing direct), by certified cheque delivered on the Unit Transfer Date, an amount equivalent to the Rebate, in addition to the Purchase Price. In those circumstances where the Purchaser maintains that he or she is eligible for the Rebate despite the Vendor's belief to the contrary, the Purchaser shall (after payment of the amount equivalent to the Rebate as aforesaid) be fully entitled to file the rebate form directly with (and pursue the procurement of the Rebate directly from) the CRA.

In the event that the Vendor, as a pre-requisite to the procurement and provision of any utility service to the Condominium is required to pay or provide any public utility authority or service supplier with cash security or a letter of credit (hereinafter the "Utility Security Deposit"), then in such circumstances the Vendor shall be entitled to a proportionate reimbursement of the Utility Security Deposit from the Purchaser, by charging the Purchaser in the Statement of Adjustments with that portion of the Utility Security Deposit, which proportion is calculated by multiplying the Utility Security Deposit by the common interest percentage allocation referable to the Unit, as set forth in the Declaration.

16. MANAGEMENT OF THE PROPERTY

A management company to be named by the Vendor shall manage the Condominium. The management company shall enter into a management agreement with the Condominium Corporation and the management fees, together with all proper common expenses incurred in connection with such management, shall be a common expense and will be included with the monthly common expense charge.

17. CONDOMINIUM DOCUMENTS - DISCLOSURE STATEMENT

The Purchaser acknowledges receipt of the Disclosure Statement which has been delivered by the Vendor to the Purchaser in accordance with the provisions of the Act and the regulations passed thereunder.

18. MODIFICATION OF CONDOMINIUM DOCUMENTS

The Vendor shall have the right from time to time prior to the Unit Transfer Date or any extension thereof to modify the proposed Condominium Documents, being comprised of the disclosure statement with the accompanying declaration, by-laws and rules, and/or to provide such additional material and information, to comply with the requirements of the Act, as may be amended from time to time, the Ministry of Consumer and Business Services or any other ministry, the Office of Land Titles, the Municipality, or other authorities, agencies or commissions having jurisdiction.

The Purchaser acknowledges and agrees that the registered Condominium Documents and final budget statement for the one year period immediately following registration of the Condominium may vary from the proposed Condominium Documents and budget statement given to the Purchaser when entering into this Agreement, and in the event there is a material change to any of the documents comprising the Condominium Documents, then the Purchaser's only remedy shall be rescission of this Agreement in accordance with the Act and the return of its deposits paid under this Agreement and the Purchaser shall not claim specific performance and/or damages of any kind against the Vendor as a result, notwithstanding any rule of law or equity to the contrary. The Purchaser further agrees to accept title to the Unit subject to the Condominium Documents being registered on title, notwithstanding that they may be amended and varied from the proposed Condominium Documents which were given to the Purchaser when entering into this Agreement.

19. AGREEMENT CONDITIONAL

This Agreement and the transaction arising therefrom are conditional upon compliance with the provisions of the Planning Act of Ontario, and amendments thereto.

20. AGREEMENT NOT TO BE REGISTERED

The Purchaser acknowledges this Agreement confers a personal right only and not any interest in the Unit or property and that the registration against title of any notice or caution or other reference to this Agreement or his or her interest is likely to cause inconvenience and prejudice or irreparable harm to the Vendor and other unit purchasers, for example, by impeding financing and the registration of the Condominium. If any such registration occurs, the Vendor may terminate this Agreement forthwith and take full forfeiture of the Purchaser's deposits as liquidated damages and not as a penalty. Further, the Purchaser hereby irrevocably consents to a court order removing such registration and agrees to pay all Vendor's costs and expenses in obtaining such court order including, but not limited to, fees of its solicitors on a solicitor and client basis together with any Applicable Taxes thereon. Additionally, the Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor or any of its authorized signing officers to be and act as his lawful attorney in the Purchaser's name, place and stead, without liability or claim, for the purpose of removing any such registration from title.

21. PURCHASER SELLING OR ASSIGNING

The Purchaser covenants not to offer, list or advertise for sale, lease or transfer the Unit, nor to sell, lease, assign or transfer his interest under this Agreement (or in the Unit) until after acquisition of title to the Unit on the Unit Transfer Date and the Vendor having received payment of all of the Purchase Price, without the prior written consent of the Vendor, which consent may be arbitrarily and/or unreasonably withheld. Notwithstanding the foregoing, in the event that i) the Vendor has sold more than ninety-five percent (95%) of the proposed Dwelling Units in the proposed Condominium; and ii) the Purchaser has paid an assignment fee to the Vendor of \$5,000.00 plus applicable taxes, and the Vendor's legal fees in the sum of \$350.00 plus applicable taxes; and iii) Commencement of Construction of the Building has occurred, in accordance with, and as such terms are defined in, the Tarion Statement and Addendum attached to the Agreement of Purchase and Sale; and iv) such request for assignment is received by the Vendor after the roof slab of the Building has been constructed and at least ninety (90) days prior to the Firm Occupancy Date; the Vendor hereby consents to the assignment of the Agreement by the Purchaser, on one (1) occasion only, provided that in connection with such assignment, the Purchaser shall not be entitled to list the Unit for sale (on MLS or otherwise), advertise for sale by any means whatsoever, (including "on line" or other computer or internet listing), or sale of the Unit prior to the final Closing Date, and provided further that the Purchaser and the assignee enter into the Vendor's form of Assignment Agreement, which shall provide, inter alia, that the assignee agrees to assume and perform all of the Purchaser's obligations pursuant to the Agreement, and to be bound by the provisions of the Agreement to the same extent as if he/she had executed same, jointly and severally with the Purchaser and that the Purchaser is not released from his/her obligations thereunder and that the assignee is responsible for all additional taxes as may be payable as a result to such assignment. This consent (on the terms set out herein) is only applicable to the initial assignment by the Purchaser to the assignee and the consent of the Vendor shall be required for any subsequent assignment, in accordance with the provisions of the Agreement. The Purchaser shall be entitled to direct that title to the Unit be taken in the name of his or her spouse, or a member of his or her immediate family only, and shall not be permitted to direct title to any other third parties.

22. TENDER

Any tender of documents or money may be made by the Vendor upon the Purchaser hereto or upon the respective solicitor, will be deemed to be good and valid if made in accordance with the provisions of paragraph herein headed Electronic Registration. The Vendor shall not be required to register any discharge of any outstanding mortgage, charge or other encumbrance not being assumed by the Purchaser on the Unit Transfer Date, in order to validate or perfect the Vendor's tender upon the Purchaser, and need only make arrangements to discharge same in accordance with the provisions of paragraph headed Acceptance of Title by Purchaser herein in the event that the Purchaser completes this transaction. The parties agree that payment of monies must be made or tendered in such form and by such method as may be directed in writing by the Vendor, in its sole, absolute and unfettered discretion. Unless otherwise directed, in accordance with the foregoing, payment shall be made by way of the Purchaser's solicitor's certified cheque drawn on a Canadian Chartered bank or trust company. The Purchaser further acknowledges and agrees that the key(s) to the Unit may be released to him directly from the sales office, the construction site, or from any other location designated by the Vendor, upon payment of all requisite monies and the delivery of all relevant documents to the Vendor, and the Vendor

shall not be required to provide any key(s) as part of any tender made by it. Upon completion of this transaction, if the Purchaser fails to attend to pick up the keys by 5:15 p.m. on that date, the Vendor may retain the keys and release same to the Purchaser on the next business day (in this Agreement the term "business day" or "business days" shall mean Monday to Friday, excluding statutory holidays in the Province of Ontario).

23. DEFAULT

The Purchaser shall be deemed to be in default under this Agreement if the Purchaser registers any instrument against title to the Unit other than the transfer to be delivered by the Vendor, or if any lien, execution or encumbrance arising from any action or default whatsoever of the Purchaser is charged against or affects the Unit.

If any (a) monetary default by the Purchaser occurs under this Agreement; or (b) any non-monetary default by the Purchaser occurs under this Agreement and such non-monetary default continues for 5 days after written notice thereof is given to the Purchaser or his solicitor, then the Vendor may retain all monies paid as liquidated damages and not as a penalty without prejudice to any other rights of the Vendor and the Vendor may thereupon cancel this Agreement. If the Vendor is required to pay any lien, execution or encumbrance, the Purchaser shall reimburse the Vendor for all amounts and costs so paid. Any monies owing to the Vendor (a) pursuant to this Agreement and not paid to the Vendor in accordance with the terms hereof; or (b) as a result of any expenses incurred by the Vendor arising from a breach by the Purchaser of any of the Purchaser's obligations described in this Agreement, shall bear interest at the rate of 24% per annum, calculated daily, not in advance, from the date of default with respect to any monetary default and from the date of written demand with respect to the aforesaid expenses. The Purchaser shall pay the Vendor's solicitor's fees in the amount of \$500.00 (plus Applicable Taxes and disbursements) for each letter or other form of notice sent to the Purchaser or the Purchaser's solicitor relating to any default by the Purchaser.

In the event that the person(s) executing this Agreement as Purchaser have done so for a disclosed or undisclosed beneficiary or principal, such person(s) executing this Agreement shall nevertheless be liable to the Vendor for the Purchaser's obligations under this Agreement and shall not plead such agency, trust relationship or other relationship as a defence to such liability.

In the event that this Agreement is terminated and the Purchaser is entitled to the return of its deposits and interest thereon in accordance with the Act and this Agreement, the Purchaser acknowledges that the Vendor and any undisclosed beneficiary, agent or other person or corporation, shall not be liable for any damages or costs whatsoever incurred by the Purchaser resulting from the termination of this Agreement including, without limitation, relocation costs, moving costs, professional fees and disbursements, opportunity costs, loss of bargain or other damages or costs incurred by the Purchaser, whether direct or indirect and the Purchaser further acknowledges that this provision may be pleaded by the Vendor as a complete defence to any claim, action or proceeding which may be made or brought against the Vendor and/or its agents and/or affiliates.

If the payment of a deposit pursuant to this Agreement that has been permitted by the Vendor to be made by way of wire transfer or direct deposit is less than the corresponding amount described in this Agreement, then the Vendor shall have the option, in its sole, absolute and unfettered discretion, of accepting such lower amount as a deposit against the Purchase Price and such acceptance shall not constitute full acceptance of the deposit in lieu of the required amount or a waiver of the Vendor's rights and remedies under this Agreement or at law.

24. EXTENSION AND TERMINATION

- (a) The Purchaser acknowledges that the Occupancy Date as described in this Agreement may be extended in accordance with the Warranty Act and the Tarion Addendum and Statement of Critical Dates.
- (b) Forthwith upon any termination of this Agreement the Purchaser shall execute and deliver to the Vendor the form of Mutual Release and Termination Agreement that may be required by the Vendor and/or Tarion in the circumstances of such termination.
- (c) The Vendor shall have the option, in its sole, absolute and unfettered discretion, to extend the Firm Occupancy Date or the Delayed Occupancy Date (as such terms are defined in the Tarion Addendum and Statement of Critical Dates), as the case may be, for one business day to avoid the necessity of tender where the Purchaser is not ready to complete the transaction on either of such dates.

25. AGREEMENT NOT TO MERGE WITH TRANSFER

All of the covenants, warranties and obligations contained in this Agreement to be performed by the Purchaser shall survive the closing of this transaction and shall remain in full force and effect notwithstanding the transfer of title to the Unit to the Purchaser. It is provided that in the event of a breach of any covenant, warranty or obligation contained in this Agreement to be performed by the Purchaser, the Vendor shall be entitled, at its option, to declare this Agreement null and void and to retain all amounts paid by the Purchaser without prejudice to any other rights of the Vendor arising from that breach.

26. WAIVER

No provision of this Agreement may be waived by either party except in writing. The waiver of any of the provisions hereunder shall not affect the right of either party to enforce all other provisions not so waived.

The Purchaser acknowledges and agrees that in the event that the Vendor has entered this Agreement and/or has distributed the Disclosure Statement as a trustee or agent for an undisclosed beneficiary or principal, whether or not so stated herein, that there shall be no liability on such undisclosed beneficiary or principal and that the only recourse or remedy that the Purchaser shall have on default by the Vendor herein and/or in respect of the Disclosure Statement is against the Vendor and the property that is the subject of this Agreement, the Purchaser hereby waiving any rights of recovery or recourse against such beneficiary or principal whether in law or equity.

27. SUBORDINATION OF AGREEMENT

The Purchaser agrees that this Agreement shall be subordinate to and postponed to any mortgages arranged or to be arranged by the Vendor and any advances thereunder from time to time, and to any easement, service agreement and other similar agreements made by the Vendor concerning the property or lands and also to the registration of all Condominium Documents. The Purchaser agrees to do all acts necessary and execute and deliver all necessary documents as may be reasonably required by the Vendor from time to time to give effect to this undertaking and in this regard the Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor or any of its authorized signing officers to be and act as his lawful attorney in the Purchaser's name, place and stead for the purpose of signing all documents and doing all things necessary to implement this provision.

28. ACCEPTANCE

This Offer by the Purchaser when accepted by the Vendor shall constitute a binding agreement of purchase and sale, without requiring notice of such acceptance to be delivered to the Purchaser prior to such time. Without limiting the generality of the foregoing, acceptance of this offer (or any counter offer with respect thereto) may be made by way of telefax transmission, pdf electronic mail or similar electronic transmission, reproducing the original, provided all of the necessary signatures and initials of both parties hereto are duly reflected on (or represented by) the telefaxed, emailed or electronic copy of the Agreement are so transmitted, and such offer and/or acceptance shall be deemed to have been effected or made when the Agreement is telefaxed, emailed or sent electronically to the intended party, and the parties irrevocably acknowledge and agree that such telefaxed, emailed or electronic transmission of the Agreement shall be binding upon the parties to the same extent as if originally signed.

29. TIME OF ESSENCE

Time shall in all respects be strictly of the essence of this Agreement and no extension of time for any payment by the Purchaser or rectification of any breach of any agreement, stipulations, condition or restriction shall operate as a waiver of this provision with respect to any other payment or rectification of any other breach, except as specifically agreed upon in writing by the Vendor or the Purchaser, as the case may be.

30. PREPARATION AND COST OF REGISTERING DOCUMENTS

The Transfer is to be prepared by the Vendor on the Vendor's standard form. If required by the Vendor, the deed may contain covenants on the part of the Purchaser to comply with the stipulations set out herein and the covenants, conditions, provisions and restrictions set out in the declaration and by-laws and rules, and is to be executed by the Purchaser. Any discharges of underlying mortgages (collectively, the "Discharges") shall be prepared by the Vendor on the Vendor's standard form; the Discharges to be at the expense of the Purchaser, being a fee of \$150.00 plus Applicable Taxes in total, irrespective of the number of Discharges required. The Purchaser shall pay the cost for registration and any exigible taxes on the registration of the Transfer and Discharges. The Purchaser agrees to provide a statutory declaration on or before closing confirming that there are no judgments outstanding against him and the Purchaser agrees to provide reasonable evidence confirming same, including a creditor's letter if necessary, if requested by the Vendor, if there is any judgment filed against a person with the same or similar name. That statutory declaration shall also include the birth date and social insurance number of the Purchaser. In the event that the electronic document registration system is operative in the relevant Land Registry Office in which the Property is situate, at the Vendor's discretion the Purchaser shall enter into the Vendor's form of escrow closing agreement which shall include provisions relating to the delivery of funds and keys and the exchange, delivery and registration of documentation. The Purchaser covenants and agrees to direct its solicitor to provide the Vendor's solicitor with a copy of the registered Transfer forthwith after registration of said Transfer.

31. SEVERABILITY

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.

32. NOTICE

- (a) Save and except for any notices to be provided pursuant to the Taron Addendum and Statement of Critical Dates, any notice desired or required to be given to the Purchaser shall be in writing, and either delivered personally or by prepaid mail, addressed to the Purchaser's solicitor or to the Purchaser at the address as provided on the front page of this Agreement or in the Taron Addendum and Statement of Critical Dates, or telefaxed to the Purchaser's solicitor or the Purchaser's telefax number as provided in the Taron Addendum and Statement of Critical Dates, or electronically mailed to either the Purchaser at the address contained in the Taron Addendum and Statement of Critical Dates or to the Purchaser's solicitor, with all such address and contact information set out on the front page of this Agreement or in the Taron Addendum and Statement of Critical Dates being subject to other or updated information that may be provided to the Vendor from time to time or otherwise in accordance with this Agreement. If such notice is mailed, it shall be deemed to have been received by the Purchaser on the day (excluding Saturdays, Sundays and statutory holidays) following the date of its mailing, and if such notice is personally delivered, same shall be deemed to have been received on the date of such personal delivery, and if telefaxed, same shall be deemed to have been received on the day (excluding Saturdays, Sundays and statutory holidays) following the transmission of the telefax, and if electronically mailed, same shall be deemed to have been received on the day (excluding Saturdays, Sundays and statutory holidays) following the date of its electronic mailing.

- (b) Save and except for any notices to be provided pursuant to the Tarion Addendum and Statement of Critical Dates, any notice desired or required to be given to the Vendor shall be in writing, and either delivered personally or by prepaid mail, addressed to the Vendor's solicitor at the address noted herein and to the Vendor, or telefaxed to the Vendor's solicitor. If such notice is mailed, it shall be deemed to have been received by the Vendor on the 3rd day (excluding Saturdays, Sundays and statutory holidays) following the date of its mailing, and if such notice is personally delivered, same shall be deemed to have been received on the date of such personal delivery, and if telefaxed, same shall be deemed to have been received on the day (excluding Saturdays, Sundays and statutory holidays) following the transmission of the telefax.
- (c) The Purchaser acknowledges and agrees that upon entering into this Agreement, he/she shall provide in the Tarion Addendum and Statement of Critical Dates the Purchaser's electronic mail address, and forthwith upon request by the Vendor the Purchaser's solicitor's electronic mail address.
- (d) The Purchaser shall advise the Vendor of any changes in any of its mailing address, telephone number or electronic mail address or of its solicitors forthwith upon such change, failing which the Purchaser shall be charged a fee of \$250.00 plus Applicable Taxes on the Statement of Adjustments.
- (e) The Purchaser covenants to forthwith and without delay retrieve, collect, receive and read all notices sent to the Purchaser by the Vendor or the Vendor's solicitor.

Provided that during periods of postal interruption or impending postal interruption, notice may not be sent by mail and must be sent by personal delivery, telefax or electronic mail in accordance with sub-paragraphs (a) and (b) above.

33. NOTICES

- (a) The Purchaser agrees that the relevant governing authorities may require the Vendor to provide the Purchaser with certain notices including, without limitation, notices regarding land usage, landscaping, noise and vibration warning resulting from existing or proposed highways and public transportation systems or corridors, garbage, school pick-up, transit routes, bus-stops and/or shelter locations (the "Notices"). Such Notices may be delivered to the Purchaser in accordance with the notice provisions herein and delivery in accordance with any methods described in said notice provisions shall be deemed to constitute appropriate notification of the Purchaser. The Purchaser agrees to be bound by the contents of any such Notices and covenants to execute forthwith upon request, an acknowledgment containing such Notices if and when requested to do so by the Vendor. Without limiting the generality of the foregoing, to the extent that any Notices are provided to the Purchaser by the Vendor after this Agreement has been made, such Notices shall be deemed to have been included in this Agreement at the time that this Agreement has been made.
- (b) The Vendor hereby advises the Purchaser that noise transmission between suites due to floor finishings, sound systems and other matters and the use of the garbage and recycling disposal chutes and elevators (if applicable) may cause annoyance to the owners and tenants, as the case may be. The Purchaser acknowledges that he is aware that the noise transmission may cause annoyance to occupants and hereby waives and releases any claims that the Purchaser may have against the Vendor for such annoyance or nuisance or otherwise.
- (c) Purchasers are advised that any noise or vibration attenuation measures or features are not to be tampered with or altered and that the owner(s) of the property in question from time to time shall have the sole responsibility for and shall maintain those measures.
- (d) The Purchaser acknowledges receipt of notice from the Vendor that the Vendor or a company (or other entity) related, associated or affiliated with the Vendor, or any entity or person with the consent of the Vendor, may apply for zoning bylaw amendments, severances, part lot control exempting by-laws, minor variances, official plan amendments, signage by-law variances or signage approval applications with respect to the lands on which the Condominium is to be constructed and/or the lands adjacent to or near the Condominium and the Purchaser, the Purchaser's successors and assigns, shall consent to any such application and agrees that this paragraph may be pleaded as a bar to any objection by the Purchaser to such zoning bylaw amendments, severances, part lot control exempting by-laws, minor variances, official plan amendments, signage by-law variances or signage approval applications. The Purchaser further acknowledges that the Vendor or a company (or other entity) related, associated or affiliated with the Vendor, or any entity or person with the consent of the Vendor, may make any such application without any further notice to the Purchaser or the Purchaser's successors and assigns. The Purchaser covenants to include this clause in any conveyance, mortgage or disposition of the Unit and to assign the benefit of such covenant to the Vendor. The Vendor shall have the right to remove any objection(s) made by the Purchaser, the Purchaser's successors and assigns, with respect to any such application and the Purchaser shall reimburse the Vendor for all legal fees, expenses and costs that it incurs as a result of such objection(s). The Vendor may, at its sole, absolute and unfettered discretion, register a restriction on title to the Unit, for such term as determined by the Vendor in its sole, absolute and unfettered discretion, containing the terms of this provision or language similar thereto and/or include same in the transfer/deed to the Unit. The Purchaser covenants and agrees to accept title to the Unit subject to said restriction and to accept the transfer/deed containing this provision or language similar thereto.
- (e) Purchasers are advised that despite the inclusion of noise control features within the development area and within the individual building units, noise levels may continue to be of concern, occasionally interfering with some activities of the building occupants, the Purchaser acknowledging that it has familiarized itself with the existing and permitted land uses in the area of the Condominium and all facets of which are or may be considered a nuisance. The Purchaser acknowledges that the nature of new building construction is such that some discomfort may result from the Vendor's (or any other corporation

or entity associated, related or affiliated with the Vendor) operations relating to the construction of the Condominium and accordingly, the Purchaser agrees that it shall not object to or interfere with the Vendor's construction operations.

- (f) The Purchaser covenants and agrees that he will not object to nor oppose any amendment to or change in the zoning, subdivision and/or site plan requirements, or oppose any other applications by the Vendor (or any other corporation or entity associated, related or affiliated with the Vendor, including, without limitation, any application by the owner(s) of the adjacent lands or other lands in the vicinity of the Condominium) to any board, tribunal or municipal or provincial body relating to or affecting the development of this Condominium, or other lands of the Vendor (or such other entity) in the vicinity of the Condominium. The Purchaser acknowledges that a covenant, restriction and/or notice to this effect may be registered on title to the Unit or the property of the Condominium on closing.
- (g) The Purchaser hereby unconditionally acknowledges that he/she is aware of the above matters and warning clauses and the notices set out in this Agreement and any schedule attached hereto and confirms that he/she does not object, in any manner whatsoever, to any of these matters and warning clauses nor to any of the notices set out in this Agreement or any schedule attached hereto nor will he/she be entitled to raise any objections with respect to the above matters and warning clauses or notices set out in this Agreement and any schedule attached hereto and the Purchaser hereby waives and releases any claims that the Purchaser may have against the Vendor with respect to the above matters, warning clauses and the notices set out in this Agreement and any schedule attached hereto and any additional notices and warning clauses as referred to at a future date.
- (h) The Purchaser acknowledges and agrees that the notices and warning clauses set out in this Agreement, any schedule attached hereto and any additional notices and warning clauses as referred to in subparagraph (a) above may be registered on title to the Unit and may be included in the Declaration when registered, at the sole, absolute and unfettered discretion of the Vendor.

34. GENDER AND NUMBER

This Agreement and its acceptance are to be read with all changes of gender and number as may be required by the context.

35. SUCCESSORS AND ASSIGNS

Except as expressly herein provided, the parties hereto further agree that the covenants, agreements, provisos and conditions in this Agreement contained shall extend to and be binding upon and enure to the benefit of the parties hereto, and their respective heirs, executors, administrators, successors and permitted assigns.

36. POWER OF ATTORNEY

- (a) In accordance with the provisions of the Powers of Attorney Act R.S.O. 1990, as amended, the Purchaser hereby confirms and agrees that each and every power of attorney granted to the Vendor or its signing officers in accordance with the terms of this Agreement may be exercised by the donee(s) during any subsequent legal incapacity of the Purchaser.
- (b) If any documents, instruments, etc. 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 shall be registered in the Land Titles Office for the Condominium, 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.
- (c) Where a third party has been appointed as the attorney for the Purchaser for the purposes of executing any documents contemplated by this Agreement, then any notices required or desired to be delivered to the Purchaser in accordance with 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 or her attorney).
- (d) Where the Purchaser is required to execute and deliver any document herein to the Vendor and fails to do so, the Purchaser hereby irrevocably nominates, 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 any such documents in accordance with the provisions of the Powers of Attorney Act (Ontario) as amended from time to time.

37. ELECTRONIC DOCUMENTS AND TRANSFER OF FUNDS

- (a) Pursuant to subsection 3(1) of the Electronic Commerce Act of Ontario, as amended (or any successor or similar legislation) (the "EC Act"): (i) the Purchaser acknowledges and agrees to use and accept any information and/or document to be provided by the Vendor and/or its solicitors in respect of this transaction in an electronic form if, when and in the form provided by the Vendor and/or its solicitors including, without limitation, accepting and providing electronic signatures, delivery by electronic mail and/or by the Vendor making information or documentation available to the Purchaser or its solicitor for access or download from a website; and (ii) the Purchaser acknowledges and agrees to provide to the Vendor and/or its solicitors any information and/or document required in respect of this transaction in an electronic form or in originally executed paper form as, when and in the form required by the Vendor and/or its solicitors, in their sole, absolute and unfettered discretion. The terms "electronic", "electronically" and "electronic signature" utilized in this Agreement shall have the meanings ascribed to them in the EC Act. In the event that the Purchaser and/or its solicitor is not willing or able to use, provide and/or accept information and documentation in electronic form in accordance with the foregoing, the

Vendor in its sole, absolute and unfettered discretion may provide or accept documentation or information other than in electronic form, in which event the Purchaser agrees to pay all of the Vendor's solicitor's legal fees and disbursements for same forthwith.

- (b) The Purchaser acknowledges and agrees that the Vendor shall determine, in its sole, absolute and unfettered discretion, the method by which the Purchaser is to make payment of any funds payable by the Purchaser in respect of this transaction. Such method may include, at the option of the Vendor, delivery of funds by the Purchaser electronically through an electronic funds transfer system (the "EFTS") designated by the Vendor or the Vendor's Solicitors, including, without limitation, the Closure Service provided by Teranet Inc. In such case:
- (i) the Purchaser's solicitor shall be registered with the provider of the EFTS, and, at the request of the Vendor's solicitors, shall provide evidence of such registration to the Vendor's solicitors at least 10 days prior to closing;
 - (ii) the Purchaser and/or the Purchaser's solicitor shall execute such documents as the Vendor or the Vendor's solicitors may require in connection with the EFTS; and
 - (iii) the Purchaser shall pay as an adjustment on closing to the Vendor or its solicitors all fees and charges imposed by the provider of the EFTS together with any wire transfer fees and charges imposed upon the Vendor or its solicitors by their banks in connection with the transfer of funds.

38. ELECTRONIC REGISTRATION

If the electronic registration system (hereinafter referred to as the "Electronic System" or "ERS") is operative in the applicable Land Registry Office in which the Unit is registered, the following provisions shall prevail, namely:

- (a) the Purchaser shall be obliged to retain a lawyer in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction, and shall authorize such lawyer to enter into an escrow closing agreement with the Vendor's solicitor on the latter's standard form (hereinafter referred to as the "Escrow Document Registration Agreement"), establishing the procedures and timing for completing this transaction. The Purchaser shall reimburse the Vendor as an adjustment on closing for any additional legal costs that the Vendor may incur to complete this transaction under ERS of \$250.00, plus Applicable Taxes.
- (b) the delivery and exchange of documents and monies for the unit and the release thereof to the Vendor and the Purchaser, as the case may be:
 - (i) shall not occur contemporaneously with the registration of the transfer/deed (and other registerable documentation); and
 - (ii) shall be governed by the Escrow Document Registration Agreement, pursuant to which the solicitor receiving the documents 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 Escrow Document Registration Agreement;
- (c) if the Purchaser's lawyer is unwilling or unable to complete this transaction via ERS, in accordance with the provisions contemplated under the Escrow 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 the time on the scheduled Unit Transfer Date as may be directed by the Vendor's solicitor or as mutually agreed upon, in order to complete this transaction via ERS utilizing the computer facilities in the Vendor's solicitor's office;
- (d) the Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the transfer to the unit for registration until the balance of funds due on closing, in accordance with the statement of adjustments, are either remitted by certified cheque via personal delivery or if agreed to by the Vendor's solicitor, by electronic funds transfer to the Vendor's solicitor (or in such other manner as the latter may direct) prior to the release of the transfer for registration;
- (e) each of the parties hereto agrees that the delivery of any documents not intended for registration on title to the unit shall be delivered to the other party hereto on or before the Unit Transfer Date; and
- (f) 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:
 - (i) delivered all closing documents and/or funds to the Purchaser's solicitor in accordance with the provisions of the Escrow Document Registration Agreement;
 - (ii) advised the Purchaser's solicitor, in writing, that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
 - (iii) has completed all steps required by ERS in order to complete this transaction that can be performed or undertaken by the Vendor's solicitor without the cooperation or participation of the Purchaser's solicitor, and
 - (iv) 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.

39. HEADINGS

The headings to the clauses of this Agreement form no part of the agreement but shall be deemed to be inserted for convenience of reference only.

40. MEANING OF WORDS

The meaning of the words, terms and phrases used in this Agreement, and particularly those terms not defined herein, shall be as defined in the Act as amended, unless specifically otherwise defined or amended herein. In the event there is a conflict between any term(s) in this Agreement, the Vendor shall determine which of the conflicting term(s) prevail(s). In the event that there is a conflict between any provision of this Agreement and the Act, and the Act provides that the provision in the Act prevails, then the provision of the Act shall prevail.

41. APPLICABLE LAW AND JOINT AND SEVERAL LIABILITY

This Agreement 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.

42. DEPOSIT RECEIPT

The Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor to be and act as his lawful attorney, without liability or claim, in the Purchaser's name, place and stead, in order to execute the deposit receipt issued pursuant to the Warranty Act and the regulations thereunder, as may be amended from time to time, and any excess Condominium Deposit Insurance (and related documents) issued by any insurer providing prescribed security for the Purchaser's deposit monies pursuant to the Act and in accordance with the provisions of the Powers of Attorney Act (Ontario) as amended from time to time. The Purchaser hereby confirms and agrees that the power of attorney granted herein may be exercised by the Vendor during any subsequent legal incapacity of the Purchaser. The Purchaser shall reimburse the Vendor as an adjustment on closing a deposit receipt administration fee of \$50.00 plus Applicable Taxes charged by the Escrow Agent for every deposit received and Evidence of Compliance form (Form 4) pursuant to subsection 81(6) of the Act issued by the Escrow Agent.

As soon as prescribed security for any deposit held by the Escrow Agent has been provided as required under the Act, the Escrow Agent shall thereupon be entitled and is hereby irrevocably authorized and directed to release and disburse such deposit in the Vendor's discretion. The Escrow Agent may rely on this provision for the release of the deposit in whole or in part notwithstanding that the Escrow Agent is not a party to this Agreement.

As soon as prescribed security for any deposit held by the Escrow Agent has been provided and the Condominium is registered as required under the Act and the Escrow Agent has obtained prior written consent from the applicable surety of the prescribed security to release the deposit, the Escrow Agent shall thereupon be entitled and is hereby irrevocably authorized and directed to release and disburse such deposit in the Vendor's discretion. The Escrow Agent may rely on this provision for the release of the deposit in whole or in part notwithstanding that the Escrow Agent is not a party to this Agreement. The Purchaser shall reimburse the Vendor as an adjustment on closing a deposit administration fee of \$250.00 plus Applicable Taxes charged by the Vendor's Solicitor to the Vendor with respect to the foregoing.

Notwithstanding anything herein, if as of the day of execution of this Agreement of Purchase and Sale, the Condominium has already been registered under the Act, the deposits paid to the Escrow Agent hereunder are not required to be held by the Escrow Agent and the deposits may be directed and/or released by the Escrow Agent to the Vendor if the Escrow Agent has obtained prior written consent from the applicable surety of the prescribed security to direct and/or release the deposit.

43. FINANCIAL INFORMATION

The Purchaser represents that the Purchaser is capable of obtaining the financing the Purchaser requires to enable the Purchaser to complete this transaction. The Purchaser hereby consents to the Vendor obtaining a consumer report containing credit and/or personal information for the purposes of this transaction. In addition, the Purchaser shall deliver to the Vendor, within 10 days of acceptance of this Agreement by the Vendor and thereafter within 14 days of demand from the Vendor or any agent thereof, 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 Unit Transfer Date, 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 and a mortgage commitment from one of the Schedule "1" banks in Canada with respect to this transaction of purchase and sale, all of the foregoing to be satisfactory to the Vendor in its sole, absolute and unfettered discretion. Any failure by the Purchaser to comply with the provisions of this paragraph shall constitute a default by the Purchaser, pursuant to which the Vendor shall have the right to terminate this Agreement and take forfeiture of the Purchaser's deposit in accordance with the provisions of this Agreement. In this regard, the Purchaser acknowledges and agrees that (a) the aforesaid information has been provided with the Purchaser's knowledge and consent that such information may be used by the Vendor, its consultants and its lending institution(s) for the purpose of arranging financing to complete the transaction contemplated by this Agreement and; (b) such information may remain on file by the Vendor for future reference.

44. PERSONAL INFORMATION

The Purchaser(s) consents to the Vendor collecting and possessing the Purchaser's name and "personal information" (as such term is defined in the Personal Information Protection and Electronic Documents Act 2000, c.5) obtained by the Vendor pursuant to and in connection with this Agreement. The Purchaser acknowledges and agrees that the aforesaid information has been provided to the Vendor with the Purchaser's knowledge and consent. In addition, the Purchaser(s) consents to the Vendor using, releasing, disclosing and/or retaining on file the Purchaser's name and personal information to: (a) a company or organization affiliated, associated or related to the Vendor, in order to provide the Purchaser with

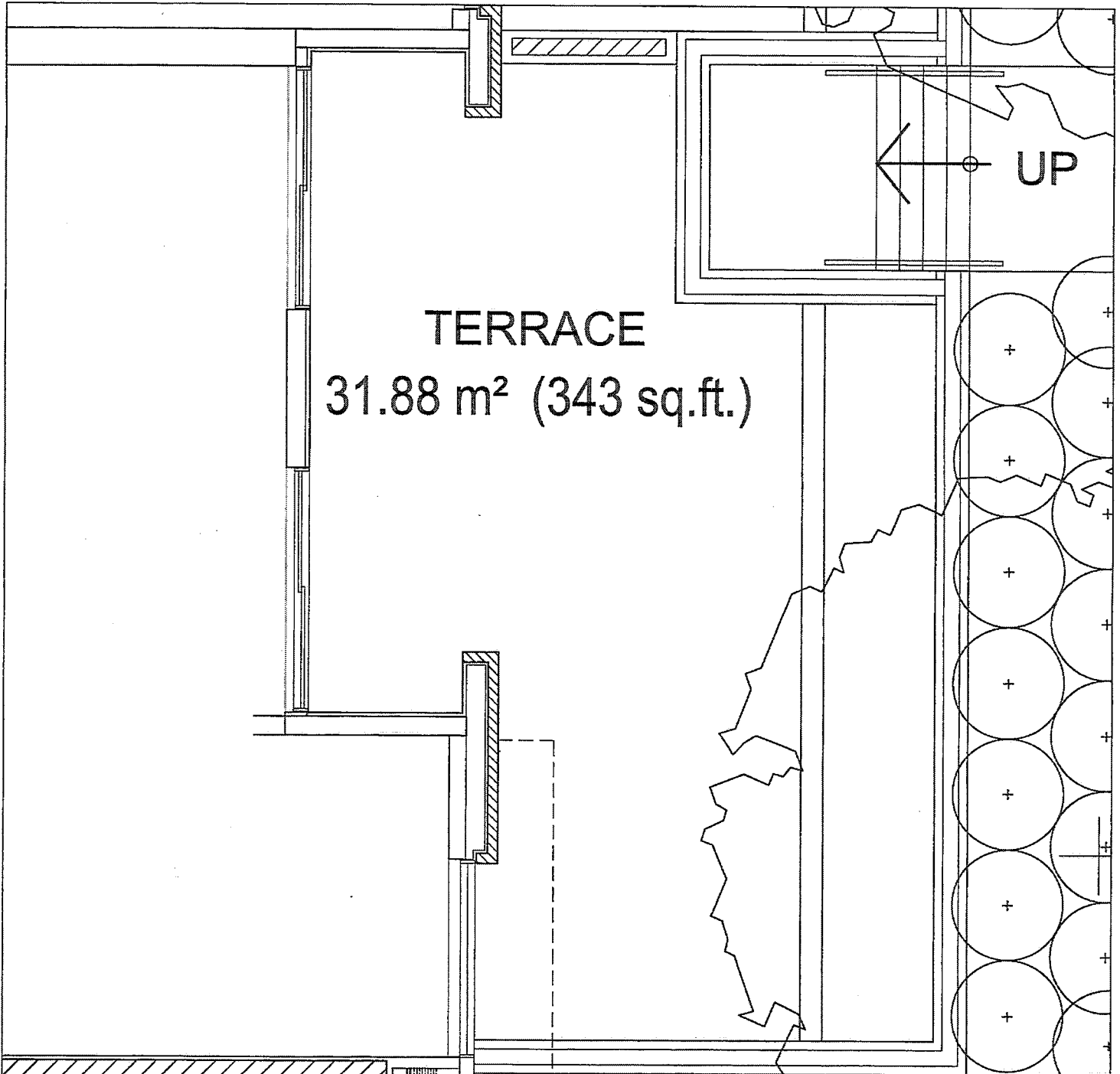
information relating to this project and other projects of such entities; (b) any provider of utilities, services and/or commodities to the Unit (including, without limitation, gas, electricity, water, telephone, internet and other communication services, cable, heating, cooling, satellite T.V., appliances and/or property tax assessments) for the purpose of marketing, promoting and providing such utilities, services and/or commodities to the Unit; (c) the Vendor's consultants and lending institution(s) for the purpose of arranging financing to complete the transaction contemplated by this Agreement; and (d) the Vendor's sales agents and representatives for the purpose of using same for promotional and marketing purposes.

45. MODEL UNITS

Notwithstanding anything herein written, if at the time that this Agreement is executed, the Unit has already been substantially completed, the Purchaser shall purchase the Unit in an "as built" and "as-is, where-is" condition without regard to its state of repair and condition rather than in accordance with any other understandings, agreements, representations, covenants and warranties herein contained. The Purchaser covenants and agrees to and with the Vendor that it shall complete the transaction notwithstanding any of the foregoing.

46. ENTIRE AGREEMENT

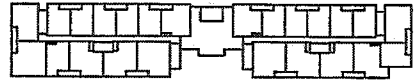
There is no oral and/or written representation, warranty, collateral agreement or condition affecting this Agreement or the Unit, or supported hereby, except as set forth herein in writing. The Purchaser acknowledges that the new home industry is multi-faceted and complex and that while sales personnel or agents are knowledgeable about most issues regarding the purchase and construction of a new home, they cannot be expected to know all aspects in detail. Accordingly, the Purchaser acknowledges that no representations have been made to the Purchaser by the sales personnel or agents, upon which the Purchaser has relied upon, and which were material or instrumental to the Purchaser's decision to purchase this Unit, except as are set forth herein in writing. There is no representation, warranty, collateral agreement or condition affecting this Agreement or the Unit, or supported hereby, except as set forth herein in writing. The Purchaser is encouraged to have this Agreement reviewed by the Purchaser's solicitor prior to signing same.



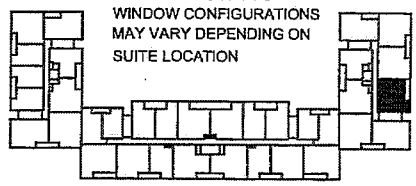
TERRACE
 31.88 m² (343 sq.ft.)

← UP

KEYPLAN: TERRACES



EXTERIOR DOOR AND
 WINDOW CONFIGURATIONS
 MAY VARY DEPENDING ON
 SUITE LOCATION



TERRACE

BOATHAUS DEVELOPMENT
 November 24, 2015



Handwritten notes and marks at the bottom right of the page, including a large closing parenthesis ']' and some illegible scribbles.

SCHEDULE B

TWO BEDROOM 2B-HB

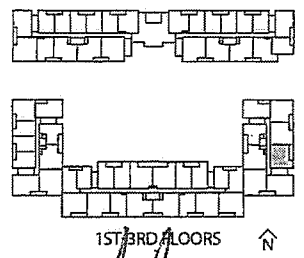


Suite# _____



Puchaser's Initials _____

Vendor's Initials _____



Exterior window/door configurations may vary depending on suite location. Specifications subject to change without notice. E. & O.E. 2015.

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SCHEDULE "B"- SKETCH OF SUITE
BOATHAUS CONDOMINIUMS – PHASE 2

See attached.

Prices and specifications subject to change without notice. E.&O.E. The dimensions shown on this plan are approximate only. Actual useable floor space within the unit may vary from any stated floor areas or dimensions on this plan. For more information on the method used for calculating the floor area of any unit, reference should be made to Builder Bulletin NO. 22 published by Tarion.

SCHEDULE "C" FEATURE LIST**BOATHAUS CONDOMINIUMS - Phase 2**

The following are included in the Purchase Price:

BUILDING FEATURES

- Smooth ceilings throughout with 9' ceiling heights in units 10 – 35 on floors 2 and 3 only and 10' ceiling heights in all remaining units.
- Low E double pane windows.
- Selected suites feature balconies and terraces as per plan.
- In suite sprinkler system.
- Smoke and carbon monoxide detectors in each unit where required by Ontario Building Code.
- Closed circuit security cameras throughout parking garage and at access doors for added safety and security.
- Enterphone system in lobby vestibule for visitors to contact residences directly to gain admittance.
- Personal remote transmitter for parking garage access provided with each parking space.
- Below grade parking and locker storage with security cameras in the garage area along with parabolic mirrors.
- Underground garage is ventilated and protected by a fire sprinkler system for added safety and protection.
- Fire safety system in accordance with current Ontario Building Code for safety.
- Underground garage lit with fluorescent lighting and light painted walls.
- Wall mounted "panic" button installed in various locations throughout the underground garage.
- Professional landscaped grounds on site property.
- Elevator servicing all parking and residential levels.

SUITE FEATURES

- Solid core suite entry door with lever handle lockset, dead-bolt lock and guest viewer with metal frame and wood casings and paint finish.
- Choice of contemporary laminate or carpet flooring in foyers, hallways, living room, dining room, kitchen, den and bedrooms from Vendor's finish packages, including transitional strips in doorways as per plan.
- Interior doors with brushed nickel-finish lever hardware as per plan.
- 4' baseboards with corresponding 2'3/4 casings with Vendor's latex white paint.
- Interior walls and ceilings primed with off-white paint. Off white paint on all trims. Bathrooms, kitchen and laundry areas are latex white semi-gloss paint.
- White painted smooth ceilings in all areas with Vendor's standard white paint.
- White decora style switches and receptacles where applicable as per plan.
- Sliding closet doors or slab swing door in bedrooms and foyer as per plan.
- Outdoor balcony or terrace with one electrical outlet as per plan.
- Sliding glass doors or swing door to outside balcony or terrace as per plan.

KITCHEN FEATURES

- Choice of contemporary style cabinets and quartz countertops from Vendor's finish packages.
- Choice of porcelain or glass tile backsplash.
- Oversized single stainless steel undermounted kitchen sink with single lever chrome pull down faucet with pull out spray.
- Exhaust fan in kitchen over the stove.
- Overhead lighting in kitchen.

APPLIANCE PACKAGE

- Stainless steel fridge, stove and dishwasher.
- Full size stackable washer/dryer including heavy duty wiring and receptacle for dryer.
- Stainless steel microwave oven with exhaust over the range.

BATHROOM FEATURES

- Custom designed cabinets from Vendor's finish packages.
- Porcelain tiles for bathroom floors with ceramic tiles for bathtub and shower enclosures from Vendor's finish packages.
- Shower stalls completed with full height ceramic tile surround and semi frameless glazed shower door as per plan.
- Vapour proof ceiling mounted pot light over tubs and showers.
- White bathroom fixtures throughout.
- Single lever chrome faucets in vanity sink.
- Quartz vanity tops with undermount basins.
- Vanity mirror and decorative light fixture.
- 2 pot lights.
- Dual-flush, white ceramic water closet.
- Exhaust fan in all bathrooms vented to the outside.
- Privacy locks on all bathroom doors.
- Temperature balance valves for tub and shower.

MULTI-MEDIA

- Pre-wired outlets for cable TV in living room, bedrooms, and den as per plan.
- Rough in for Hi-speed Internet connectivity in every suite.

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- o Telephone outlets in living room, kitchen, bedrooms, and den.
- o Wi-Fi connectivity in selected amenity areas

MECHANICAL / ELECTRICAL / WASTE MANAGEMENT

- o Dedicated heat pump unit(s) as per plan with dedicated heated/cooling thermostat.
- o Individual climate control suite heating and air-conditioning.
- o Individual metering of in-suite electrical consumption.
- o Domestic water meters and/or check meters dedicated for hot and cold water.
- o Dedicated electrical meter.
- o Pre-wired for personal encoded stand-alone intrusion alarm system.
- o Suite equipped with emergency voice communication system.
- o Switch controlled split outlets in living room and bedroom as per plan.
- o Electrical copper wiring with circuit breaker service panel.

HOMEOWNERS LEVELS OF PROTECTION

- o One-year warranty on the workmanship and materials.
- o Tarion Warranty Corporation New Home Warranty Protection, as per Tarion Guidelines.
- o Manufacturer's warranty on appliances.

Notes: The ceiling height of any suites are approximate and are measured from the upper surface of the concrete floor slab to the undersurface of the concrete ceiling slab. Where ceiling bulkheads are installed, the ceiling heights will be less than the stated ceiling height for that floor. Where dropped ceilings are required (in areas such as foyers, closets, kitchens, bedrooms, dining rooms, bathrooms, laundry rooms and hallways) the ceiling height will also be less than the stated ceiling height for that floor.

Drop ceilings in the bathroom, laundry area, closets, foyer, hallways and kitchen. Bulkheads are applicable, where required within the living space.

Variations from Vendor's samples may occur in finishing materials, countertops, kitchen and bathroom cabinets, floor or wall finishes due to normal production. The Vendor reserves the right to substitute material of equal or better quality without notice subject to availability at time of construction.

The Purchaser acknowledges that finishing and decorative materials contained in any model suite or sales office including furniture, electrical fixtures, drapes, flooring, cabinets, mirrors, etc. may be for display purposes only and may not be of the same grade or type, or may not be included in the unit.

All specifications and terms are subject to change without notice. E. & O.E. October 21st, 2015.

Note: The Vendor shall have the right to make reasonable changes, in the opinion of the Vendor, in the plans and specifications, if required, and to substitute other material for that provided herein with material that is of equal or better quality than that provided for herein. The determination of whether or not a substitute material is of equal or better quality shall be made by the Vendor's Architect or Interior Designer, whose determination shall be final and binding. Colour, texture, appearance, etc. of features and finishes installed in the Unit may vary from Vendor's samples as a result of normal manufacturing and installation processes. E. & O.E.

SCHEDULE "D" WARNING CLAUSES AND NOTICE PROVISIONS**BOATHAUS CONDOMINIUMS – PHASE 2**

The Purchaser shall execute any and all acknowledgments and releases required by the relevant governmental authorities in accordance with the provisions of this Agreement.

The Purchaser is hereby notified of the following warning and notice clauses:

- (a) The Condominium is intended to contain architectural features on the exterior facades of the Condominium, which features may contain lights or may be lit up by some form of lighting system. Purchasers are hereby advised that such lighting features or systems, if installed, may result in light and/or noise entering the units and/or the balconies and terraces and may interfere with the activities and enjoyment of the units and/or balconies and terraces by the unit occupants.
- (b) Recycling of refuse may be required by the Municipality and residents will be required to sort refuse in accordance with the recycling requirements of the Municipality.
- (c) The Purchaser acknowledges that each Unit is to be equipped with a forced air heating and cooling system (the "HVAC system"). The owner of the Unit shall be responsible for the maintenance and repair of such HVAC system (including all pipes, conduits, equipment and appurtenances thereto) whether such HVAC system is installed or located within or outside of (or partially within or outside of) the Unit. The maintenance and repair of the HVAC system may be arranged for by the Condominium Corporation and carried out by its designated contractors or workmen, but all costs related to such maintenance and repair if performed by the Condominium Corporation shall be paid for by the owner of the Unit, in addition to common expenses. Purchasers shall permit access to the Unit, from time to time, to the Condominium Corporation and all others entitled thereto, to repair and maintain the HVAC system to the extent that same is applicable.
- (d) The Purchaser acknowledges that if the Unit contains laminate or engineered wood flooring, same may absorb excess moisture under humid conditions and release its normal moisture content under excessively dry conditions. Such flooring will naturally swell during the humid season and will shrink when heat is applied. The Purchaser acknowledges that the Vendor will not be responsible for any swelling or shrinkage cracks resulting from excessive humidity or excessive dryness within the Unit. When the heating system is not in use during late spring, summer and early fall, the Vendor strongly recommends that the Purchaser use a dehumidifier in the Unit. Correspondingly, when the heating system is on during the late fall, winter and early spring, the Vendor strongly recommends the use of a humidifier system within the Unit. The Purchaser takes full responsibility for any damage to the flooring as a result of its failure to mitigate air quality conditions as herein set out.
- (e) The Purchaser is hereby advised that the Vendor's builder's risk and/or comprehensive liability insurance (effective prior to the registration of the Condominium), and the Condominium's master insurance policy (effective from and after the registration of the Condominium) will only cover the common elements and the standard unit contemplated in the Disclosure Statement and will not cover any betterments or improvements made to the standard unit, nor any furnishings or personal belongings of the Purchaser or other residents of the Unit, and accordingly the Purchaser should arrange for his or her own insurance coverage with respect to same, effective from and after the Firm Occupancy Date, all at the Purchaser's sole cost and expense.
- (f) The Purchaser is advised that the parking unit(s), if any, purchased by the Purchaser and assigned by the Vendor may not be a standard sized parking unit pursuant to the applicable municipal by-laws and that the Vendor shall not be responsible if the Purchaser's motor vehicle cannot be accommodated within the parking unit purchased and assigned by the Vendor. The Purchaser is advised that the parking unit(s) and/or storage unit(s), if any, purchased by the Purchaser and assigned by the Vendor may be obstructed due to intrusion and existence of pipes, ducts, columns, beams, bulkheads etc. and the Vendor shall not be responsible if the Purchaser's motor vehicle cannot be accommodated within the parking unit(s) purchased and assigned by the Vendor or if certain of the Purchaser's personal items cannot be accommodated within the storage unit(s) purchased and assigned by the Vendor.
- (g) The Purchaser is advised that if access to the Condominium is provided by way of a public laneway(s), that said laneway(s) may be given low priority in terms of maintenance and snow clearing and the Municipality cannot guarantee that snow and/or ice clearing shall be done in a timely manner.
- (h) The Purchaser is advised that the balcony(ies) and/or terrace(s) appurtenant to its Unit may be occupied and/or utilized, from time to time by the Vendor, the Condominium Corporation and/or the Condominium's property management company, for the purpose of the inspection, repair, replacement and/or cleaning of the windows, window systems and/or the façade of the Condominium or nearby structures. The Purchaser shall not object to, block, hinder or delay such occupation and/or use of the balcony(ies) and/or terrace(s) appurtenant to its Unit.

SCHEDULE "E" ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURE MATERIALS

BOATHAUS CONDOMINIUMS – PHASE 2

THE UNDERSIGNED PURCHASER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THE FOLLOWING DOCUMENTS:

- (a) copy of the Agreement of Purchase and Sale and all schedules attached/referenced therein (to which this Acknowledgement is attached as a Schedule) executed by the Vendor and the Purchaser;
- (b) copy of the Current Disclosure Statement in accordance with the requirements of Section 72 of the Condominium Act, 1998 including the following items:
 - (i) Disclosure Statement Table of Contents;
 - (ii) Disclosure Statement;
 - (iii) proposed Declaration;
 - (iv) proposed By-Law No. 1;
 - (v) proposed By-Law No. 2;
 - (vi) proposed management agreement;
 - (vii) Budget Statement;
 - (viii) Sections 73 and 74 of the Act – purchaser's right to rescind;
 - (ix) plan showing the overall site of the Condominium; and
 - (x) the proposed rules governing the corporation.

DATED this _____ day of _____, 201_____.

Witness: _____

Signature of Purchaser

(Printed Name of Purchaser)

Witness: _____

Signature of Purchaser

(Printed Name of Purchaser)



**Condominium Form
(Tentative Occupancy Date)**

Property Boathaus Residences -
Phase 2

**Statement of Critical Dates
Delayed Occupancy Warranty**

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

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

VENDOR Scollard Development Corporation
Full Name(s)

PURCHASER _____
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 ___st day of _____, 20__.

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

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

For purchase agreements signed after the Roof Assembly Date, the First Tentative Occupancy Date is inapplicable and the Vendor shall instead elect and set either a Final Tentative Occupancy Date or Firm Occupancy Date. the ___ day of _____, 20__.
Final Tentative Occupancy Date

or

the ___ day of _____, 20__.
Firm Occupancy Date

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

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

The **Outside Occupancy Date**, which is the latest date by which the Vendor agrees to provide Occupancy, is: the ___ day of _____, 20__.

2. Notice Period for an Occupancy Delay

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

(i.e., at least 90 days before the First Tentative Occupancy Date), or else the First Tentative Occupancy Date automatically becomes the Firm Occupancy Date. the ___ day of _____, 20__.

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:

If the Purchaser terminates the transaction during the Purchaser's Termination Period, then the Purchaser is entitled to delayed occupancy compensation and to a full refund of all monies paid plus interest (see sections 7, 10 and 11 of the Addendum). the ___ day of _____, 20__.

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 ___ day of _____, 20__.

VENDOR: _____ **PURCHASER:** _____

Addendum to Agreement of Purchase and Sale
 Delayed Occupancy Warranty

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

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

The Vendor shall complete all blanks set out below.

VENDOR Scollard Development Corporation

Full Name(s) 51 Caldari Road, Suite 1M

Tarion Registration Number Address
 (416) 477-7744 Vaughan Ontario L4K 4G3

Phone City Province Postal Code

Fax Email*

PURCHASER

Full Name(s)

Address City Province Postal Code

Phone

Fax Email*

PROPERTY DESCRIPTION

1606 Charles Street

Municipal Address Ontario L1N 1B9

Whitby City Province Postal Code

Short Legal Description

INFORMATION REGARDING THE PROPERTY

The Vendor confirms that:

- (a) The Vendor has obtained Formal Zoning Approval for the Building. Yes No
 If no, the Vendor shall give written notice to the Purchaser within 10 days after the date that Formal Zoning Approval for the Building is obtained.
- (b) Commencement of Construction: has occurred; or is expected to occur by the _____ day of _____, 20____.

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

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

SETTING AND CHANGING CRITICAL DATES

1. Setting Tentative Occupancy Dates and the Firm Occupancy Date

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

2. Changing the Firm Occupancy Date – Three Ways

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

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

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

4. Changing Critical Dates – By Mutual Agreement

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

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

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

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

5. Extending Dates – Due to Unavoidable Delay

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

EARLY TERMINATION CONDITIONS

6. Early Termination Conditions

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

**Condominium Form
 (Tentative Occupancy Date)**

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

Condition #1 (if applicable)

Description of the Early Termination Condition:

SEE APPENDIX ATTACHED

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

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

Condition #2 (if applicable)

Description of the Early Termination Condition:

SEE APPENDIX ATTACHED

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

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

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

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

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

MAKING A COMPENSATION CLAIM
7. Delayed Occupancy Compensation

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

8. Adjustments to Purchase Price

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

MISCELLANEOUS
9. Ontario Building Code – Conditions of Occupancy

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

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

10. Termination of the Purchase Agreement

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

11. Refund of Monies Paid on Termination

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

12. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Addendum Prevails

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

14. Time Periods, and How Notice Must Be Sent

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

- Business Days prior to the commencement of the postal stoppage or interruption must be re-sent by another means in order to be effective. For purposes of this section 14, Business Day includes Remembrance Day, if it falls on a day other than Saturday or Sunday, and Easter Monday.
- (c) If either party wishes to receive written notice under this Addendum at an address/contact number other than those identified on page 2 of this Addendum, then the party shall send written notice of the change of address, fax number, or email address to the other party in accordance with paragraph (b) above.
 - (d) Time periods within which or following which any act is to be done shall be calculated by excluding the day of delivery or transmission and including the day on which the period ends.
 - (e) Time periods shall be calculated using calendar days including Business Days but subject to paragraphs (f), (g) and (h) below.
 - (f) Where the time for making a claim under this Addendum expires on a day that is not a Business Day, the claim may be made on the next Business Day.
 - (g) Prior notice periods that begin on a day that is not a Business Day shall begin on the next earlier Business Day, except that notices may be sent and/or received on Remembrance Day, if it falls on a day other than Saturday or Sunday, or Easter Monday.
 - (h) Every Critical Date must occur on a Business Day. If the Vendor sets a Critical Date that occurs on a date other than a Business Day, the Critical Date is deemed to be the next Business Day.
 - (i) Words in the singular include the plural and words in the plural include the singular.
 - (j) Gender-specific terms include both sexes and include corporations.

15. Disputes Regarding Termination

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

For more information please visit www.tarion.com

SCHEDULE A

Types of Permitted Early Termination Conditions

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

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

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

(b) upon:

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

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

2. The following definitions apply in this Schedule:

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

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

3. Each condition must:

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

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

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

SCHEDULE B

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.]

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.

1. N.S.F. ADMINISTRATIVE FEE (if applicable)
Section 14(i) of Schedule "A"
\$250.00 plus Applicable Taxes
2. WIRE TRANSFER OR DIRECT DEPOSIT ADMINISTRATIVE FEE (if applicable)
Section 14(m) of Schedule "A"
\$150.00 plus Applicable Taxes per Vendor permitted wire transfer/direct deposit
\$150.00 plus Applicable Taxes administrative fee per occurrence for non-compliance
3. REPLACEMENT CHEQUE / POSTPONEMENT OF DEPOSIT ADMINISTRATIVE FEE (if applicable)
Section 14(n) of Schedule "A"
\$250.00 plus Applicable Taxes
4. RELEASE OF VENDOR'S LIEN (if applicable)
Section 14 of Schedule "A"
\$100.00 plus Applicable Taxes
5. DEFAULT LETTER/NOTICE
Section 22 of Schedule "A"
\$500.00 plus Applicable Taxes
6. REGISTRATION OF DISCHARGES (if applicable)
Section 29 of Schedule "A"
\$150.00 plus Applicable Taxes
7. FAIL TO INFORM VENDOR OF CHANGE OF PURCHASER'S INFORMATION (if applicable)
Section 31(d) of Schedule "A"
\$250.00 plus Applicable Taxes
8. ELECTRONIC REGISTRATION SYSTEM FEE
Section 37(a) of Schedule "A"
\$250.00 plus Applicable Taxes
9. DEPOSIT ADMINISTRATION / FORM 4 FEE
Section 41 of Schedule "A"
\$250.00 plus Applicable Taxes

Note to Purchaser: capitalized headings herein are for descriptive purposes only – for more particulars, please refer to appropriate provisions of the Agreement of Purchase and Sale.

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

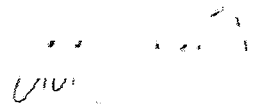
These are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing which will be determined after signing the Purchase Agreement, all in accordance with the terms of the Purchase Agreement.

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

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. OCCUPANCY FEE PAYMENTS / POST-DATED CHEQUES / LAND TAXES AND INTERIM BILLS
Section 4(c) of Schedule "A"
2. FAIL TO PROVIDE, CHANGE/AMEND OR PROVIDE CORRECT INFORMATION (if applicable)
Section 4(e) of Schedule "A"
3. SECURITY DEPOSIT / COSTS RE DAMAGES TO CONDOMINIUM (if applicable)
Section 4(f) of Schedule "A"
4. TELEPHONE, CABLE TELEVISION, UTILITY EXPENSES ETC.
Section 5(b) of Schedule "A"
5. EXTRAS, UPGRADES AND CHANGES
Section 6 of Schedule "A"
6. UTILITY METER(S) INSTALLATION / PROVISION
Section 6 of Schedule "A"
7. CONTRIBUTION TOWARDS COMMON EXPENSES AND ADJUSTMENT FOR OCCUPANCY FEES
Section 14(a) of Schedule "A"
8. RESERVE FUND
Section 14(b) of Schedule "A"
9. PREPAID OR CURRENT EXPENSES, CHARGES PAID TO A UTILITY ETC.
Section 14(c) of Schedule "A"
10. REALTY TAXES, LOCAL IMPROVEMENT RATES ETC.
Section 14(d) of Schedule "A"
11. TRANSACTION LEVY SURCHARGE
Section 14(e) of Schedule "A"
12. ONTARIO NEW HOME WARRANTIES PLAN ACT ENROLMENT FEE
Section 14(f) of Schedule "A"
13. METER PROVISION AND INSTALLATION FEES FOR: ELECTRICITY METER, WATER METER, AND HEATING AND/OR COOLING METER
Section 14(g) of Schedule "A"
14. NON-RESIDENT WITHHOLDING SUM (if applicable)
Section 14(j) of Schedule "A"
15. STATUS CERTIFICATE CHARGE
Section 14(k) of Schedule "A"
16. LEVIES/CHARGES ETC.
Section 14(l) of Schedule "A"
17. ELECTRICITY, WATER, AND HEATING AND/OR COOLING FEES, COSTS OR CHARGES ETC.
Section 14(o) of Schedule "A"
18. VENDOR'S LIEN FEES (if applicable)
Section 14 of Schedule "A"
19. PAYMENT OF HST REBATE (if applicable)
Section 14 of Schedule "A"
20. REIMBURSEMENT OF UTILITY SECURITY DEPOSIT (if applicable)
Section 14 of Schedule "A"
21. COSTS & EXPENSES OF COURT ORDER TO DELETE AGREEMENT FROM TITLE (if applicable)
Section 19 of Schedule "A"
22. ASSIGNMENT FEE (if applicable)
Section 20 of Schedule "A"
23. INTEREST ON UNPAID SUMS / EXPENSES (if applicable)
Section 22 of Schedule "A"
24. VENDOR'S LEGAL FEES, EXPENSES AND COSTS AS A RESULT OF PURCHASER'S (PURCHASER'S SUCCESSORS AND ASSIGNS) OBJECTION(S) OR OPPOSITION (if applicable)
Sections 32(d) and (f) of Schedule "A"
25. VENDOR'S SOLICITOR'S LEGAL FEES AND DISBURSEMENTS RE: NON-ELECTRONIC DOCUMENTATION/INFORMATION (if applicable)
Section 36(a) of Schedule "A"
26. EFTS FEES AND CHARGES (if applicable)
Section 36(b)(iii) of Schedule "A"

Note to Purchaser: capitalized headings herein are for descriptive purposes only – for more particulars, please refer to appropriate provisions of the Agreement of Purchase and Sale.



TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE [•])	THURSDAY, THE 3 rd DAY
)	
JUSTICE [•])	OF AUGUST, 2017

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

AND IN THE MATTER OF A MOTION PURSUANT TO 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

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Kofman Inc., in its capacity as Court-appointed receiver (in such capacity, the "**Receiver**"), without security, of certain of the assets, undertaking and property of Scollard Development Corporation (the "**Debtor**"), for an order, *inter alia*, approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver, as vendor, and Carttera Management Inc. ("**Carttera**"), as purchaser, dated June 20, 2017, as such agreement was assigned by Carttera to 1604 – 1614 Charles Street East LP, by its general partner, 1604 – 1614 Charles Street East GP Inc. (the "**Purchaser**") by an assignment and assumption agreement dated [•], 2017 (the agreement as assigned herein referred to as the "**Sale Agreement**"), a copy of which is attached as Confidential Appendix "2" to the Seventh Report of

the Receiver dated July 24, 2017 (the "**Seventh Report**"), and vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, all the Receiver's and the Debtor's right, title and interest in and to the property described as the "Purchased Assets" in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Seventh Report and appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Seventh Report is hereby abridged and validated, if necessary, so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that, unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is commercially reasonable and is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, or as it may direct.
4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Receiver's Certificate**"), all the Receiver's and the Debtor's right, title and interest in and to the

Purchased Assets described in the Sale Agreement, including without limitation the Lands legally described in **Schedule "B"** hereto shall vest absolutely in the Purchaser, or as it may direct, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, leases, notices of lease, subleases, licences, restrictions, contractual rights, options, judgments, liabilities (direct, indirect, absolute or contingent), the Unit Purchase Obligations (as such term is defined in the Sale Agreement), obligations, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Wilton-Siegel dated February 2, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders and declares that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

5. **THIS COURT ORDERS** that upon the registration in the LRO of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser, or as it may direct, as the owner of the subject real property identified in **Schedule "B"** hereto (the "**Real Property**") in fee simple,

and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule "C"** hereto.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS** that immediately after the delivery of the Receiver's Certificate, each of the Unit Purchase Agreements (as defined in the Sale Agreement) shall be deemed to have been terminated by the Receiver.

8. **THIS COURT ORDERS** that following the delivery of the Receiver's Certificate, the Receiver is authorized and directed to make the following distributions:

- (a) first, all amounts owing to Downing Street Financial Inc. to repay all amounts owing to it;
- (b) second, to Trisura Guarantee Insurance Company ("**Trisura**") and Everest Insurance Company ("**Everest**") in the amount of \$135,378.16 and any further amounts that may be owing from time to time to repay all amounts owing to Trisura and Everest in accordance with paragraphs 35 and 36 of the Order made in this proceeding on February 2, 2017 (as amended, the "**Receivership Order**");

- (c) third, to Leeswood Design Build Ltd. and the IBI Group (as defined in the Seventh Report) in the amounts of \$13,011.08 and \$33,876.84, respectively, provided counsel for each such entity confirms its agreement that such amount represents the applicable entity's entitlement to a special priority lien under section 78 of the *Construction Lien Act*, and failing which the distribution will be subject to further Order of Court; and
- (d) fourth, to Grant Thornton Limited, in its capacity as Court-appointed trustee of Scollard Trustee Corporation in the proceedings bearing Court File No. CV-16-11567-00CL (in such capacity, the "**Trustee**"), in the amount of approximately \$5,100,000, as a partial distribution of amounts owing to Scollard Trustee Corporation.

9. **THIS COURT ORDERS** that following the completion of the Transaction the Receiver shall hold the amount of \$1,000,000 in reserve (the "**Reserve Amount**") for Trisura and Everest until the Tarion Bonds (as defined in the Receivership Order) are returned to Trisura and Everest for cancellation. The Receiver shall, from time to time, pay such amounts from the Reserve Amount to Trisura on behalf of Trisura and Everest as directed by Trisura as is required to fully indemnify Trisura and Everest for any and all losses, damages, liabilities, costs and expenses pursuant to the Tarion Bonds and the Indemnity Agreements (as defined in the Receivership Order) in accordance with paragraphs 35 and 36 of the Receivership Order, provided the Receiver shall have first received evidence satisfactory to it with respect to such losses, damages, liabilities, costs and expenses.

10. **THIS COURT ORDERS** that following the making of the distributions contemplated in paragraph 8 hereof, the Receiver is authorized to make such further distributions to the Trustee from time to time up to the amount owing to Scollard Trustee Corporation.

11. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

12. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

13. **THIS COURT ORDERS** that the Confidential Appendices to the Seventh Report shall be sealed and kept confidential pending completion of the Transaction.

14. **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.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-17-11689-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AND TEXTBOOK (555 PRINCESS STREET) INC.

AND IN THE MATTER OF A MOTION PURSUANT TO SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. c. 43, AS AMENDED

RECEIVER'S CERTIFICATE

RECITALS

I. Pursuant to an Order of the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated February 2, 2017, KSV Kofman Inc. was appointed as receiver (in such capacity, the "**Receiver**"), without security, of all the real property registered on title as being owned by Scollard Development Corporation (the "**Debtor**") (collectively, the "**Lands**") and of all the assets, undertakings and properties of the Debtor acquired for or used in relation to the Lands (the "**Property**").

II. Pursuant to an Order of the Court dated August 3, 2017, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and Carttera Management Inc. ("**Carttera**"), as purchaser, dated June 20, 2017, as such agreement was assigned by Carttera to 1604 – 1614

Charles Street East LP, by its general partner, 1604 – 1614 Charles Street East GP Inc. (the "**Purchaser**") by an assignment and assumption agreement dated [●], 2017, (the agreement as assigned herein referred to as the "**Sale Agreement**"), and provided for the vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, of all the Receiver's and the Debtor's right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of this certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Receiver.

III. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The transaction has been completed to the satisfaction of the Receiver; and

4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV KOFMAN INC., in its capacity as court-appointed receiver of all the real property registered on title as being owned by Scollard Development Corporation and of all the assets, undertakings and properties of Scollard Development Corporation acquired for or used in relation to such real property, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"
LEGAL DESCRIPTION OF THE REAL PROPERTY

PIN 26484-0005 (LT)

PART OF LOT 8, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 9, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 14, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 15, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. D405505; TOWN OF WHITBY

PIN 26484-0006 (LT)

PART OF LOT 8, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 15, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. CO139720 & PART OF LOT 18, PLAN 40R-10885; SUBJECT TO INSTRUMENT NO. CO139720; TOWN OF WHITBY

PIN 26484-0007 (LT)

PART OF LOT 7, BLOCK 4, PLAN H50035 WHITBY; PART OF LOT 16, BLOCK 4, PLAN H50035 WHITBY AS IN INSTRUMENT NO. D374163; SUBJECT TO INSTRUMENT NO. CO132238; TOWN OF WHITBY

SCHEDULE "C"
INSTRUMENTS TO BE DELETED FROM PIN NOS.
26484-0005 (LT), 26484-0006 (LT) and 26484-0007 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1297446	2014/09/08	CHARGE	\$13,600,000	SCOLLARD DEVELOPMENT CORPORATION	SCOLLARD TRUSTEE CORPORATION
DR1297450	2014/09/08	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1301869	2014/09/23	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1303201	2014/09/26	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1309302	2014/10/21	TRANSFER OF CHARGE		SCOLLARD TRUSTEE CORPORATION	OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION
DR1376600	2015/06/30	CHARGE	\$3,500,000	SCOLLARD DEVELOPMENT CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY
DR1376618	2015/06/30	POSTPONEMENT		OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1422316	2015/11/13	NOTICE		SCOLLARD DEVELOPMENT CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY
DR1422354	2015/11/13	POSTPONEMENT		OLYMPIA TRUST COMPANY, SCOLLARD TRUSTEE CORPORATION	TRISURA GUARANTEE INSURANCE COMPANY
DR1496316	2016/07/20	CONSTRUCTION LIEN	\$130,111	LEESWOOD DESIGN BUILD LTD.	
DR1511251	2016/08/31	CERTIFICATE		LEESWOOD DESIGN BUILD LTD.	
DR1534483	2016/11/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	GRANT THORNTON LIMITED
DR1541405	2016/11/24	CONSTRUCTION LIEN	\$338,768	IBI GROUP ARCHITECTS (CANADA) INC.	
DR1544472	2016/12/01	CONSTRUCTION LIEN	\$338,768	IBI GROUP PROFESSIONAL SERVICES (CANADA) INC.	
DR1560774	2017/01/23	CERTIFICATE		IBI GROUP PROFESSIONAL SERVICES (CANADA) INC. ET AL.	

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
DR1567474	2017/02/14	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)	KSV KOFMAN INC.
DR1590410	2017/05/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)	KSV KOFMAN INC.

SCHEDULE "D"
PERMITTED ENCUMBRANCES

Assumed Encumbrances from PIN 26484-0005 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
D492865	1997/05/08	AGREEMENT			THE TOWN OF WHITBY
DR31730	2001/10/29	NOTICE AGREEMENT		MAC'S FUTONS 4-U INC.	THE CORPORATION OF THE TOWN OF WHITBY
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

Assumed Encumbrances from PIN No. 26484-0006 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

Assumed Encumbrances from PIN No. 26484-0007 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
D70819	1978/06/15	BYLAW DEEM PLNP			
DR1552568	2016/12/23	NO APL ABSOLUTE		SCOLLARD DEVELOPMENT CORPORATION	

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD.,
MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET)
INC. AMD TEXTBOOK (555 PRINCESS STREET) INC.

AND IN THE MATTER OF A MOTION PURSUANT TO 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

Court File No: CV-17-11689-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto ON M5X 1A4

Sean Zweig (LSUC#573071)
Tel.: (416) 777-6254
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Counsel to the Receiver,
KSV Kofman Inc.

IN THE MATTER OF THE RECEIVERSHIP OF SCOLLARD DEVELOPMENT CORPORATION, MEMORY CARE INVESTMENTS (KITCHENER) LTD., MEMORY CARE INVESTMENTS (OAKVILLE) LTD., 1703858 ONTARIO INC., LEGACY LANE INVESTMENTS LTD., TEXTBOOK (525 PRINCESS STREET) INC. AMD TEXTBOOK (555 PRINCESS STREET) INC.

AND IN THE MATTER OF A MOTION PURSUANT TO 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

Court File No: CV-17-11689-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD
(Returnable August 3, 2017)

BENNETT JONES LLP
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