

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE CONSTRUCTION LIEN ACT,
R.S.O. 1990, c. C.30, AS AMENDED

AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

RESPONDING RECORD

Volume 1 of 2

Re: Parking Motion

Originally Returnable: October 5, 2015

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October 14, 2015

DUNCAN, LINTON LLP

Barristers & Solicitors

P.O. Box 457

45 Erb Street East

Waterloo, Ontario

N2J 4B5

Irwin A. Duncan (LSUC #12857G)

e: iad@kwlaw.net

t: (519) 886-3340

f: (519) 886-8651

Lawyers for Richard Magnussen, Marilyn
Magnussen, Joseph Siefried, Susan Siefried, AJ
Mueller, Kerry Mueller, Ryan Cyrankiewicz and
Laurie Cyrankiewicz

TO: **CHAITONS LLP**
500 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton
e: harvey@chaitons.com
t: (416) 218-1837
f: (416) 218-1849

Sam Rappos
e: samr@chaitons.com
t: (416) 218-1137
f: (416) 218-1837

Lawyers for the Trustee

AND
TO: SERVICE LIST

SERVICE LIST
(as of October 13, 2015)

<p>CHAITONS LLP 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9</p> <p>Harvey Chaiton Tel: (416) 218-1129 Fax: (416) 218-1849 E-mail: harvey@chaitons.com</p> <p>Sam Rappos Tel: (416) 218-1137 Fax: (416) 218-1837 Email: samr@chaitons.com</p> <p>Lawyers for the Trustee</p>	<p>COLLINS BARROW TORONTO LIMITED 11 King St. West, Suite 700, Box 27 Toronto, ON M5H 4C7</p> <p>Bryan Tannenbaum and Tel: (416) 238-5055 Fax: (416) 480-2646 Email: btannenbaum@collinsbarrow.com</p> <p>Arif Dhanani Tel: (647) 725-0183 Fax: (416) 480-2646 Email: andhanani@collinsbarrow.com</p> <p>Trustee</p>
<p>THORNTON GROUT FINNIGAN LLP Ste. 3200, 100 Wellington St. W. PO Box 329, Toronto-Dominion Centre Toronto, ON M5K 1K7</p> <p>Grant Moffat / Asim Iqbal Tel: (416) 304-0599 / (416) 304-0595 Fax: (416) 304-1313 Email: gmoffat@tgf.ca / aiqbal@tgf.ca</p> <p>Lawyers for Laurentian Bank of Canada</p>	<p>ROSENSTEIN LAW 6 Adelaide Street East, Suite 1000 Toronto, ON M5C 1H6</p> <p>Jonathan Rosenstein Tel: (416) 639-2123 Fax: (647) 827-0424 Email: jrosenstein@rosensteinlaw.ca</p> <p>Lawyers for Aviva Insurance Company of Canada</p>
<p>AFFLECK GREENE MCMURTRY LLP 365 Bay Street, Suite 200 Toronto, ON M5H 2V1</p> <p>Kyle Peterson / Michael Binetti Tel: (416) 360-0327 / 360-0777 Fax: (416) 360-5960 Email: kpeterson@agmlawyers.com / mbinetti@agmlawyers.com</p> <p>Lawyers for MarshallZehr Group Inc.</p>	<p>BROWN BEATTIE O'DONOVAN LLP 1600 – 380 Wellington Street London, ON N6A 5B5</p> <p>James Fisher Tel: (519) 964-3163 Fax: (519) 679-6350 Email: jfisher@bbo.on.ca</p> <p>Lawyers for Allen Street Holdings Inc.</p>
<p>A. CONTE PROFESSIONAL CORPORATION 242 Applewood Crescent, Unit 12, 2nd Floor Concord, ON L4K 4E5</p> <p>Antonio Conte Tel: (416) 947-0208 Fax: (866) 543-3165</p>	<p>PALLET VALO LLP 77 City Centre Drive, West Tower, Suite 300 Mississauga, ON L5B 1M5</p> <p>Anna Esposito Tel: (905) 273-3022 x 260 Fax: (905) 273-6920</p>

<p>Email: a.conte@contelaw.ca</p> <p>Lawyers for Global Fire Protection Ltd.</p>	<p>Email: aesposito@pallettvalo.com</p> <p>Lawyers for Adlers Main Tile & Carpet Co. Ltd. and 694643 Ontario Limited</p>
<p>KOSKIE MINSKY LLP 20 Queen Street West, Suite 900, Box 52 Toronto, ON M5H 3R3</p> <p>Jeffrey Long Tel: (416) 595-2125 Fax: (416) 204-2892 Email: jlong@kmlaw.ca</p> <p>Lawyers for J & I Gaweda Construction Limited</p>	<p>PETKER & ASSOCIATES 295 Weber St. N. Waterloo, ON N2J 3H8</p> <p>Jarvis Postnikoff Tel: (519) 886-1204 Fax: (519) 886-5674 Email: jarvis@petkerlaw.com</p> <p>Lawyer for Bast Home Comfort Inc.</p>
<p>PARENTE, BOREAN LLP 3883 Highway 7, Suite 207 Woodbridge, ON L4L 6C1</p> <p>Gerard Borean Tel: (905) 850-6066 Fax: (905) 850-6069 Email: gborean@parenteborean.com</p> <p>Lawyers for Frenzel Kitchens Limited</p>	<p>CHODOLA REYNOLDS BINDER 720 Walker Road Windsor, ON N8Y 2N3</p> <p>Robert Reynolds Tel: (519) 254-6433 Fax: (519) 254-7990 Email: reynolds@crblaw.ca</p> <p>Lawyers for T.I.C. Contracting Ltd.</p>
<p>BARRY S. GREENBERG 7626A Yonge Street Thornhill, ON L4J 1V9 Tel: (905) 886-9535 Ext. 27 Fax: (905) 886-9540 Email: bsgreenberg@rogers.com</p> <p>Lawyers for Weston Flooring Limited</p>	<p>CLARKS LLP 1200 Canada Building , 374 Ouellette Avenue Windsor, ON N9A 1A8</p> <p>John Clark Tel: (519) 254-4990 Fax: (519) 254-2294 Email: jtclark@clarkslaw.com</p> <p>Lawyers for Sam Tortoloa Enterprises Inc.</p>
<p>DOOLEY LUCENTI 10 Checkley Street Barrie, ON L4N 1W1</p> <p>Eric Gionet Tel: (705) 792-7963 Fax: (705) 792-7964 Email: egionet@dllaw.ca</p> <p>Lawyers for CRS Contractors Rental Supply General Partner Inc.</p>	<p>BISCEGLIA & ASSOCIATES 200-7941 Jane St. Concord, ON L4K 4L6</p> <p>Emillio Bisceglia Tel: (905) 695-3100 Fax: (905) 695-5201 Email: ebisceglia@lawtoronto.com</p> <p>Lawyers for Hammerschlag & Joffe Inc.</p>

<p>SIMPSONWIGLE LAW LLP 1 Hunter Street East, Suite 200 Hamilton, ON L8N 3W1</p> <p>Derek Schmuck Tel: (905) 528-8411 x 363 Fax: (905) 528-9008 Email: schmuckd@simpsonwigle.com</p> <p>Lawyers for Sreen Painting Ltd.</p>	<p>ECCLESTON LLP Toronto Dominion Bank Tower, Ste. 4020, 66 Wellington St. W. PO Box 230, Stn. Toronto Dom. Toronto, ON M5K 1J3</p> <p>Ken Eccleston and Maurizio Artale Tel: (416) 504-3364 / (416) 913-2043 Fax: (416) 504-2686 Email: ken@ecclestonllp.com / Maurizio@ecclestonllp.com</p> <p>Lawyers for Skyway Canada Limited</p>
<p>LEVINE, SHERKIN, BOUSSIDAN 300-23 Lesmill Rd. North York, ON M3B 3P6</p> <p>Jeremy Sacks Tel: (416) 224-2400 Fax: (416) 224-2408 Email: Jeremy@lsblaw.com</p> <p>Lawyes for Great Pyramid Aluminum Ltd.</p>	<p>HAMMOND FLESIAS 3800 Steeles Ave. West, Suite 300 Woodbridge, ON L4L 4G9</p> <p>Richard Hammond Tel: (905) 850-8550 Fax: (905) 850-9998 Email: rhammond@hammond flesias.com</p> <p>Lawyers for Brody Wall System Ltd.</p>
<p>MILLER THOMSON LLP 60 Columbia Way, Suite 600 Markham, ON L3R 0C9</p> <p>Enzo Di Iorio / Riccardo Del Vecchio Tel: (905) 415-6711 / (905) 415-6764 Fax: (905) 415-6777 Email: ediiorio@millerthomson.com / rdelvecchio@millerthomson.com</p> <p>Lawyers for Global Precast Inc. and 2050491 Ontario Inc. o/a The Downsview Group</p>	<p>RUBIN & CHRISTIE LLP 219 Finch Avenue West - 2nd Floor Toronto, ON M2R 1M2</p> <p>David Rubin Tel: (416) 361-0900 Fax: (416) 361-3459 Email: drubin@rubinchristie.ca</p> <p>Lawyers for DKS Stone Fabrication & Design Inc.</p>
<p>SIMMONS DA SILVA LLP Suite 200; 201 County Court Blvd Brampton, ON L6W 4L2</p> <p>Pathik Baxi Tel: (905) 861-2822 Fax: (905) 457-5641 E-mail: pathik@sdsllawfirm.com</p> <p>Lawyers for Clonard Group Inc.</p>	<p>CAPO, SGRO LLP 400-7050 Weston Rd. Woodbridge, ON L4L 8G7</p> <p>Gregory Hemsworth Tel: (905) 850-7000 Fax: (905) 850-7050 Email: ghemsworth@cslp.ca</p> <p>Lawyers for Aluminum Window Design Installations Inc.</p>

<p>GLAHOLT LLP 141 Adelaide St West, Suite 800 Toronto, ON M5H 3L5</p> <p>Andrea Lee Tel: (416) 368-8280 x 216 Fax: (416) 368-3467 Email: al@glaholt.com</p> <p>Lawyers for Turner Fleischer Architects Inc.</p>	<p>FARHOOD BOEHLER WINNY LLP Marstrand Center, 510-20 Erb Street West Waterloo, ON N2L 1T2</p> <p>Wayne Boehler Tel: (519) 744-9949 Fax: (519) 744-7974 Email: wboehler@fblaw.ca</p> <p>Lawyers for Nelco Mechanical Limited</p>
<p>WILSON VUKELICH LLP Valleywood Corporate Centre 60 Columbia Way, Suite 710 Markham, ON L3R 0C9</p> <p>Tel: (905) 940-8700 Fax: (905) 940-8785 Email: information@wvllp.ca</p> <p>Lawyers for 81 Capital Inc.</p>	<p>DENTONS CANADA LLP 77 King Street West, Suite 400, TD Centre Toronto, ON M5K 0A1</p> <p>Bill Deley Tel: (416) 367-6834 Fax: (416) 863-4592 Email: bill.deley@dentons.com</p> <p>Lawyers for Atlas-Apex Roofing (Kitchener) Inc.</p>
<p>MACDONALD ASSOCIATES PC 5 Wertheim Court, Suite 702 Richmond Hill, ON L4B 3H7</p> <p>Jason R. Allingham Tel: (905) 731-6564 Fax: (905) 731-7989 Email: jallingham@maclawyers.ca</p> <p>Lawyers for HTS Engineering Ltd.</p>	<p>FARHOOD BOEHLER WINNY Suite 510, 20 Erb Street West Waterloo, ON N2L 1T2</p> <p>Harley N.K. Yule Tel: (519) 744-9949 ext. 27 Fax: (519) 744-7974 Email: HYule@fblaw.ca</p> <p>Lawyers for Re/Max Twin City Inc.</p>
<p>TORYS LLP 79 Wellington St. W., 30th Floor Box 270, TD South Tower Toronto, ON M5K 1N2</p> <p>Adam Slavens Tel: (416) 865-7333 Fax: (416) 865-7380 Email: aslavens@torys.com</p> <p>Lawyers for Tarion Warranty Corporation</p>	<p>DUNCAN, LINTON LLP 45 Erb St. E. PO Box 457, Stn. Waterloo Waterloo, ON N2J 4B5</p> <p>Irwin Duncan Tel: (519) 886-3340 Fax: (519) 886-8651 Email: iad@kwlaw.net</p> <p>Lawyers for Richard and Marilyn Magnussen, Joseph and Susan Siefried, Ryan and Laurie Cyrankiewicz, and AJ and Kerry Mueller</p>
<p>NORTON ROSE FULBRIGHT CANADA LLP Suite 3800, Royal Bank Plaza South Tower, 200 Bay Street, P.O. Box 84 Toronto, ON M5J 2Z4</p>	<p>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE PO Box 620</p>

<p>Michael Tamblyn Tel: (416) 202-6705 Fax: (416) 216-3930 Email: michael.tamblyn@nortonrosefulbright.com</p> <p>Lawyers for Lipton's Audio Video Unlimited</p>	<p>33 King Street West, 6th Floor Oshawa, ON L1H 8E9</p> <p>Kevin J. O'Hara Tel: (905) 433-6934 Fax: (905) 436-451 Email: kevin.ohara@ontario.ca</p>
<p>SORBARA, SCHUMACHER, MCCANN LLP 31 Union St. East Waterloo, ON N2J 1B8</p> <p>Justin Heimpel Tel: (519) 741-8010 ext. 224 Fax: (519) 576-1184 Email: jheimpel@sorbaralaw.com</p> <p>Lawyers for Bulldog Rebar Inc. and the City of Waterloo</p>	<p>DEPARTMENT OF JUSTICE CANADA Ontario Regional Office, Tax Law Services The Exchange Tower 130 King Street West, Suite 3400 Toronto, ON M5X 1K6</p> <p>Rakhee Bhandari Tel: (416) 952-8563 Fax: (416) 973-0810 Email: Rakhee.Bhandari@justice.gc.ca</p> <p>Lawyers for Canada Revenue Agency</p>
<p>REGIONAL MUNICIPALITY OF WATERLOO 150 Frederick St., 8th Floor Kitchener, ON N2G 4J3</p> <p>Fiona M. McCrea - Solicitor, Property Tel: (519) 575-4518 Fax: (519) 575-4466 Email: fmccrea@regionofwaterloo.ca</p>	<p>CITY OF WATERLOO Waterloo City Centre 100 Regina Street South, PO Box 337 STN Waterloo Waterloo, ON N2J 4A8</p> <p>Steve Ross, Director, Legal Services Tel: (519) 747-8758 Fax: (519) 747-8523 Email: Steve.Ross@waterloo.ca</p>
<p>MADORIN, SNYDER LLP 55 King Street West, P.O. Box 1234 Kitchener, ON N2G 4G9</p> <p>Ted Dreyer and Christopher Clemmer Tel: (519) 744-4491 Fax: (519) 741-8060 Email: edreyer@kw-law.com / cclemmer@kw-law.com</p> <p>Lawyers for Robert Coghill</p>	<p>GOWLING LAFLEUR HENDERSON 50 Queen Street North, Suite 1020, PO Box 2248 Kitchener, ON N2H 6W2</p> <p>Ross Earnshaw Tel: (519) 575-7525 Fax: (519) 571-5025 Email: ross.earnshaw@gowlings.com</p> <p>Lawyers for John Allen Miller and Douglas Jamieson Miller</p>
<p>JAMES SCHMIDT 305 King Street West, . unit 1108 Kitchener ON N2G 1B9</p> <p>Tel: (519) 578-2115 Fax: (519) 578 1927 Email: mr.jsschmidt@rogers.com</p>	<p>DAVIES WARD PHILLIPS & VINEBERG LLP 155 Wellington Street West Toronto, ON M5V 3J7</p> <p>Robin Schwill Tel: (416) 863-5502 Fax: (416) 863-0871 Email: rschwill@dwpv.com</p>

<p>Lawyer for Mirjana Radulovic and Jovan Bernard Marjanac</p>	<p>Lawyers for Certain Unit Purchasers represented by Robson Carpenter LLP</p>
<p>M.G.M. Paralegal Services 19 Weber Street East Kitchener, ON N2H 1C2</p> <p>Nancy Gazzola Tel: (226) 647-9206 Fax: (866) 300-8682 Email: mgmlegalservice@gmail.com</p> <p>Paralegals for Gregory Moore</p>	<p>MILLER THOMSON LLP Accelerator Building 295 Hagey Blvd., Suite 300 Waterloo, ON N2L 6R5</p> <p>Judy A. Byrne Tel: (519) 579-3660 Fax: (519) 743-2540 Email: jbyrne@millerthomson.com</p> <p>Lawyers for Gregory Moore</p>
<p>ERIC M. KRAUSHAAR LAW OFFICE 5-620 Davenport Road Waterloo, ON N2V 2C2</p> <p>Eric M. Kraushaar Tel: (519) 886-0088 Fax: (519) 746-1122 Email: Eric@churchill-homes.com</p> <p>Lawyers for Michael Herbert Robinson Williams</p>	<p>GOWLING LAFLEUR HENDERSON 50 Queen Street North, Suite 1020, PO Box 2248 Kitchener, ON N2H 6W2</p> <p>Kenneth Hanbidge Tel: (519) 569-4551 Fax: (519) 569-4051 Email: ken.hanbidge@gowlings.com</p> <p>Lawyers for Stephanie Lynn Pollard</p>
<p>BRYAN J. THAM 127 Duke St. E. Kitchener, ON N2H 1A6 Tel: (519) 578-6476 Fax: (519) 578-6721 Email: bryan.tham@bellnet.ca</p> <p>Lawyer for Kam Fung Lam, and Cau Chac</p>	<p>VOLL & SANTOS 30 Spetz St. Kitchener, ON N2H 1K1</p> <p>Ana Santos Tel: (519) 578-3400 Fax: (519) 578-9521 Email: asantos@vollandsantos.com</p> <p>Lawyer for Brian Santos</p>
<p>MADORIN, SNYDER LLP 55 King Street West, P.O. Box 1234 Kitchener, ON N2G 4G9</p> <p>Tim McGowan Tel: (519) 744-4491 Fax: (519) 741-8060 Email: tmcgowan@kw-law.com</p> <p>Lawyers for Elizabeth and William Wendt</p>	<p>GIESBRECHT, GRIFFIN, FUNK AND IRVINE 60 College Street Kitchener, ON N2H 5A1</p> <p>Richard Strype Tel: (519) 579-4300 x 264 Fax: (519) 579-8745 Email: rstrype@ggfilaw.com</p> <p>Lawyers for Joe Woodhouse</p>

<p>LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP Suite 2600, 130 Adelaide Street West Toronto ON MSH 3P5</p> <p>Peter H. Griffin and Brian Kolenda Tel: (416) 865-2921 / (416) 865-2897 Fax: (416) 865-3558 / (416) 865-9010 Email: pgriffin@litigate.com / bkolenda@litigate.com</p> <p>Lawyers for William Seegmiller</p>	<p>MCCARTER GRESPAN 675 Riverbend Drive Kitchener, ON N2K 3S3 David R. Fedy Tel: (519) 571.8800 Ext. 215 Fax: (519) 742.1841 Email: dfedy@mgbwlaw.com</p> <p>Lawyers for William Seegmiller</p>
<p>HUSSEIN LAW OFFICE 275 Lancaster Street West, 2nd Floor Kitchener, ON N2H 4V2</p> <p>Jessica Sipione Tel: (519) 744-8585 Fax: (519) 744-8569 Email: jessica@vhlaw.ca</p> <p>Lawyers for Xiaoli Wang and Maochun Pan</p>	<p>WOLFE, SMITH & FORSTER LLP 140 St. Andrew St. W. PO Box 99, Stn. Main Fergus, ON N1M 2W7</p> <p>Deryk Smith Tel: (519) 843-3650 Fax: (519) 843-6907 Email: smith@wolfelawfirm.com</p> <p>Lawyers for The Estate of Geoffrey Guy and Joann Louise Martin, Russ McEachnie and Rita McEachnie</p>
<p>CANADA REVENUE AGENCY c/o Marko Bobar Tel: (416) 973-3720 Email: Marko.Bobar@cra.gc.ca</p>	<p>SAVARIA 85 Bessemer Road London ON N6E 1P9</p> <p>Danielle Ryder Tel: (519) 681-3311 ext 4231 Fax: (519) 681-3494 Email: danieller@savaria.com</p>
<p>ROBERT COGHILL Email: bobcoghill@yahoo.com</p>	<p>OLIVER ROMANIUK 182 Westwood Ave. Toronto, ON M4K 2B1 Tel: (416) 909-0521 Email: oliver.romaniuk@gmail.com</p>
<p>RUSSELL MCEACHNIE Email: russell.mceachnie1@igprivatewealth.com</p>	<p>JOSEPH SIEFRIED Email: krellafireplaces@hotmail.com</p>
<p>81 CAPITAL INC. c/o Neil Cruickshank - neilc@maxium.net and John Nassar - john.nassar@81capital.com</p>	

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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED

AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

AFFIDAVIT

I, Richard Magnussen, of the City of Waterloo, in the Regional Municipality, MAKE
OATH AND SAY:

1. I am a unit purchaser and resident of 144 Park Street, Waterloo, Ontario, and, as such, have knowledge of the matters contained in this Affidavit.
2. The matters deposed to herein are within my personal knowledge except where otherwise indicated. Where I indicate that I have obtained information from other sources, I believe that information to be true. Copies of documents attached hereto as exhibits are true copies of the documents so identified.

Background

3. My wife Marilyn and I entered into an Agreement of Purchase and Sale with 144 Park Ltd. on June 8, 2009 (the "Agreement"), to purchase Suite No. 1901 (PH01) and two parking units at a purchase price of \$901,500. A copy of that Agreement is annexed as **Exhibit "A"**.

4. We intended to purchase this property for long-term ownership as our future retirement home. We had earlier sold our house in Kitchener and lived temporarily with our daughter while awaiting completion of construction of the 144 Park Project.

5. The Grand Penthouse unit that we agreed to purchase was marketed as being a unit with two parking spaces as the square foot size of that unit was double or triple that of other units in the Project.

6. Our decision to purchase this property was based on a desire to live in a high-quality condominium residence, close to the amenities of downtown Waterloo, without the concerns of property maintenance and upkeep associated with freehold ownership.

7. My wife and I each have our own car, and two parking spaces are required to accommodate our lifestyle needs. I work in an office in New Hamburg and require my car to travel there daily.

8. During the course of construction we arranged for certain upgrades and improvements for our residential unit to be performed by the Vendor, the particulars of which are set out in the chart annexed as **Exhibit "B"**.

9. The purchase price for our unit was increased accordingly by \$30,274.50.

10. We paid the following deposits on account of the purchase price:

(a) \$5,000 upon submitting the Agreement;

(b) \$40,075 - 15 days after execution of the Agreement;

- (c) \$45,075 - 45 days after execution of the Agreement;
- (d) \$45,075 - 90 days after execution of the Agreement;
- (e) \$45,075 - 120 days after execution of the Agreement;
- (f) \$73,349.50 - upon the Occupancy Date.

The balance of the purchase price is payable upon Title Transfer date. A copy of the Interim Statement of Adjustments is annexed as **Exhibit "C"**.

11. The Agreement was amended by an Amending Agreement dated June 20, 2009, which increased the purchase price to \$1,051,500 to reflect the cost of the upgrades referred to in paragraph 9 hereof. A copy of the Amendment is annexed as **Exhibit "D"**.

12. I also arranged to have additional work performed in our unit prior to taking occupancy including upgraded flooring (\$25,670.86 plus HST) ; kitchen cabinetry (\$40,052 plus HST), window coverings (\$11,387.45 plus HST), built-in appliances (\$20,812 plus HST), audio/video and home automation systems (\$35,195.98 plus HST), all of which totals more than \$143,000.

13. In accordance with the Agreement, we entered into Interim Occupancy of our residential unit and two parking units on or about September 22, 2014. At that time we paid a further deposit on account of the purchase price of \$75,349.50.

14. Prior to the interim occupancy date, the solicitors for the Vendor provide copies of the following documents:

- (a) Budget Statement for First Year of Operations;
- (b) Disclosure Statement;

- (c) Declaration;
- (d) By-Law No. 1; and,
- (e) Management Agreement.

15. We signed and delivered an Occupancy Acknowledgment and delivered a cheque for prorated occupancy fees of \$1,062.89, four postdated cheques for \$3,542.95 for monthly occupancy rent and a Direction re Title authorizing title to our unit to be put in our names as joint tenants.

16. The Interim Closing documentation all refer to our residential unit number as Unit 1, Level 19 and the two parking units as Unit 24 and Unit 25, Level A. Attached are copies of the Interim Closing Memorandum and Vendor's Direction as **Exhibits "E" and "F"**.

17. Once in occupancy, we move our furniture and personal belongings into our unit and completed all required decorating. We incurred costs relating to the move and for decorating.

18. Since taking interim occupancy we have paid interim occupancy fees in the amount of \$3,542.95 per month up to and including May, 2015.

19. When we entered into interim occupancy, construction of the building was not completed. Work was still being performed on the common elements of the Project. Twenty of the units in the building remained unsold and had no interior finishes.

20. In early January, 2015 I was advised that the condominium would be registered in mid-January and that closing funds would be due at that time.

21. By email dated January 5, 2015, our solicitors requested confirmation of when registration was expected. Attached as **Exhibit "G"** is a copy of the email from McCarter, Grespan of January 5, 2015 and the reply from Harris, Shaeffer suggesting that I make "*the necessary arrangements with respect to financing now*" and advising that they would notify once the Declaration had "*been registered and a Final Closing Date has been set.*"

22. By email dated January 30, 2015, the solicitors for the Vendor advised that they "*were working with the Vendor to complete the last steps required for registration of the condominium*" and provided Notice to Purchasers and Supplemental Disclosure Statement, updated Declaration, Shared Facilities Agreement and Budget Statement which purported to set out a detailed description of the changes to the condominium documentation. The email concluded with the comment: "*The Vendor and our firm look forward to closing with you in the new year.*" A copy of that email is annexed as **Exhibit "H"**.

Trusteeship

23. I learned about the appointment of Collins, Barrow Limited as Trustee on or about January 23, 2015.

24. My first concern was that the common elements of the Project be completed and that all steps required to attain registration of the Project as a condominium were completed so that we could complete our purchase. I understood that one of the reasons for the appointment of a trustee was to finalize the registration of the condominium so that the unit purchases could be completed.

25. Soon after the appointment of the Trustee, I had dealings with Arif Dhanani (“Dhanani”) on behalf of the Trustee and with David Marshall (“Marshall”) who I learned was a principal of the second mortgagee, MarshallZehr Limited.

26. I received numerous assurances from both Dhanani and Marshall that they were committed to early completion of all outstanding Project deficiencies and that they were working diligently to attain condominium registration.

27. It was stated specifically by Dhanani and Marshall that our purchase transaction and all of the other pending purchases would be completed immediately after the condominium was registered.

28. I became a member, and one of the leaders, of an informal *ad hoc* committee (the “Committee”) of unit purchasers formed to represent the interests of the unit purchasers in their dealings with the Trustee.

29. I learned that a master key to the Project and the individual residential units was provided to Marshall and I saw him and real estate agents in the building regularly.

30. It became obvious to me that Marshall was very involved with the Project. As a member of the Committee I had many meetings and telephone conversations with Marshall concerning completion of the common elements, registration of the Project as a condominium and issues relating to property management of the Project

31. By letter dated March 5, 2015, my solicitor drew to the attention of the Trustee concerns about the registration of the condominium, completion of work on the Project and

the sale of unsold units. That refers to a letter of intent from Clearlake Holdings Ltd. concerning its proposed purchase of the 20 unsold units, without parking. That letter also requested a meeting with the Trustee to address the concerns of unit purchasers. A copy of that letter is annexed as **Exhibit "I"** and Letter of Intent is annexed as **Exhibit "J"**.

32. The Trustee's solicitor responded by email dated March 11, 2015, advising that the Trustee was not aware of the letter of intent, that it had no authority to deal with the unsold units and that it was working with MarshallZehr to complete unfinished work. Attached as **Exhibit "K"** is a copy of that email dated March, 11, 2015.

Post May 1, 2015

33. In early May 2015, I understood that the condominium had been registered. My solicitors sent an email to the Trustee's solicitors on May 21, 2015, seeking confirmation that the condominium was registered and inquiring about a completion date for the purchase. The solicitors for the Trustee responded the same day indicating that they had no confirmation of the registration and stating that they would advise when a final closing date had been set. Attached as **Exhibit "L"** is a copy of the email exchange dated May 21, 2015.

34. The Declaration and Description were registered on May 25, 2015 thereby creating Condominium Corporation No. 591.

35. On June 1, 2015, Karla Roelofs ("Karla"), Customer Service Team Leader for the Project, sent an email to the residents confirming registration of the condominium and stating that the Trustee and its consultants were working hard to finalize the closing arrangements for

the individual suites and that they should expect their lawyers to receive closing packages from the solicitors for the Trustee. She also indicated that there would be expedited closing dates for purchasers who were paying cash. Attached as **Exhibit "M"** is a copy of the email from Karla dated June 1, 2015.

36. I responded to Karla's email by email dated June 1, 2015, directing her to put us on the "fast list" for closing. Attached as **Exhibit "N"** is a copy of my June 1, 2015 email.

37. On June 16, 2015, I sent a further email to Karla asking for an up-date on closing and the anticipated turn-over date for the condominium corporation. Attached as **Exhibit "O"** is a copy of my email dated June 16, 2015.

38. By email dated June 16, 2015, from Karla to a number of residents, she advised that the Trustee had informed her that "*they are working on all closings now*" and that the residents' lawyers should be hearing from the Vendor's lawyer very soon. A copy of that email is attached as **Exhibit "P"**.

39. I was advised by our solicitors that they received a letter from the solicitors for the Trustee dated June 16, 2015, (a copy of which is attached as **Exhibit "Q"**), advising of the registration of the condominium documents on May 25, 2015, and that the Order appointing the Trustee had been registered on January 23, 2015. The letter went on to state:

"Unfortunately there are not sufficient parking units available to be sold in this project. Accordingly, the Court Appointed Trustee is requesting that the Purchaser(s) agree to amend the Agreement of Purchase and Sale to delete the second Parking Unit and correspondingly reduce the purchase price by the amount of \$33,900 (inclusive of HST). If your client is

agreeable to same, please sign and return a copy of this letter to us by no later than June 22, 2015, and we will then be in a position to set a final closing date. If we do not hear from you by that time or your client is not agreeable to the Amendment, the Trustee may seek a Court Order terminating the Agreement of Purchase and Sale.”

40. I was shocked and angered by the letter. At no time was I ever told by the Trustee or David Marshall or Karla that we would be required to give up a parking space. In fact, in my conversations with both Dahani and Marshall over several months I had received repeated assurances that our purchase transaction would be completed shortly after registration of the condominium and that would include both of our parking units.

41. By letter dated June 16, 2015, our solicitor advised that we were not willing to give up a parking unit. Attached as **Exhibit “R”** is a copy of the letter from McCarter, Grespan dated June 16, 2015.

42. On July 6, our solicitors received another letter from the solicitors for the Trustee wherein they provided further information about the parking unit issue, asked that we reconsider our refusal to give up a parking unit and set a new deadline to respond of July 10, 2015. Attached as **Exhibit “S”** is a copy of the letter from Harris, Sheaffer dated July 6, 2015.

43. By letter dated July 7, 2015, our solicitor advised that we were not prepared to give up a parking unit. Attached as **Exhibit “T”** is a copy of a letter from McCarter, Grespan dated July 7, 2015.

44. On July 9, Duncan, Linton, solicitors for a number of unit purchasers sent a letter to the Trustee’s solicitor setting out a number of concerns and questions concerning the

Trustee's actions concerning the parking unit issues. Attached as **Exhibit "U"** is a true copy of that letter.

45. The solicitor for the Trustee responded to the letter from Duncan, Linton by letter dated July 17, 2015. A copy of that letter is annexed as **Exhibit "V"**.

46. On July 24, 2015, Duncan, Linton sent a further letter to the Trustee's solicitor seeking additional information from the Trustee. A copy of that letter is annexed as **Exhibit "W"**.

47. By letter dated July 28, the Trustee's solicitor responded. Attached as **Exhibit "X"** is a copy of that letter.

48. By email dated July 31, 2015, my solicitors asked if a final closing date had been set. The solicitors for the Trustee responded by email the same day that a final closing date has not been established. Attached as **Exhibit "Y"** is a copy of that email exchange of July 31, 2015.

49. On July 31, I sent an email to the Trustee referring to the Trustee's Report of July 30 concerning the vesting to be completed by August 10, 2015. Dhanani responded by email of the same date advising that Court permission to obtain vesting orders for all units does not mean that all units will close on August 10, 2015. A copy of that email exchange of July 31 is annexed as **Exhibit "Z"**.

50. I responded to Dhanani's email of July 31 asking when I would get notice of closing for unit 1901. He responded by email of the same date advising that his "*hope is that we can close everyone's unit as soon as possible*" and that "*[o]nce we sort the issue out in its entirety, there is no reason to delay anyone's closing.*". Attached as **Exhibit "AA"** is a copy of that email exchange of July 31, 2015.

51. I sent an email to Dhanani on August 11, 2015 inquiring when the condominium corporation would be turned over to a board of directors of the unit owners now that the date referred to in the Trustee's Report for a turn-over on August 10 had passed. His email response of the same day set out details relating to the number of unit sales completed, details pertaining to the parking unit issue, the need for a Court attendance in September and a delay in the turn-over meeting. That email exchange is annexed as **Exhibit "BB"**.

52. The Trustee sent a letter to all purchasers of condominium units with two parking units dated August 12, 2015, advising that there are insufficient parking units to transfer two parking units to those purchasers. After referring to its prior letter offering \$33,900 to purchasers who were prepared to give up a parking unit, he commented:

"It has become apparent that there is no circumstance where the Trustee will be a position to transfer two parking units to you."

A copy of that letter is attached as **Exhibit "CC"**.

53. By letter dated August 28, 2015, my solicitors sent the Trustee's solicitor a letter setting out our position and requesting confirmation of a closing date for our purchase transaction. A true copy of that letter is annexed as **Exhibit "DD"**.

54. By email dated August 28, 2015, the Trustee's solicitor responded, indicating that the Trustee is not in a position to close the transaction. A copy of that email is annexed as **Exhibit "EE"**.

55. I believe that my value of the residential unit would be substantially reduced if we did not receive title to the two parking spaces we purchased. Parties who would be interested in purchasing a residence worth more than \$1.0 million would almost certainly require at least two parking units, especially given that the 144 Park Project has no visitor parking and on-street parking is not permitted.

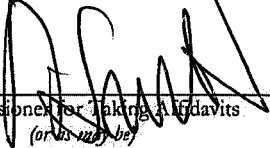
56. I also disagree that a price reduction of \$30,000 plus HST would adequately compensate purchasers who were obliged to give a parking unit.

57. Loss of a parking space would seriously impair the use of our residence by myself and my wife and would cause great inconvenience. We would be left with a residential unit that was a significant departure from the residence that was marketed to us.

58. If, as the Trustee asserts, parking spaces will be available from the 155 Uptown Project, it seems to me that the Trustee could simply delay the sale of the 20 unsold units until those parking spots become available if it truly believes that those 20 units can only be sold at an acceptable price if they have one parking space .

I make this Affidavit to provide information relating the purchase of my condominium unit and the impact of the Trustee's proposals on me and my family.

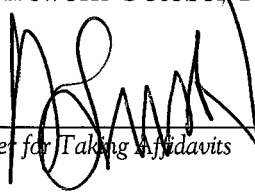
SWORN BEFORE ME at the City of Waterloo, in the Regional Municipality of Waterloo, on October 14 , 2015.


Commissioner for Taking Affidavits
(or as may be)



RICHARD MAGNUSSEN

This is Exhibit "A" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

AGREEMENT OF PURCHASE AND SALE

The undersigned, RICHARD MAGNUSSEN AND MARILYN MAGNUSSEN (collectively, the "Purchaser"), hereby agrees with 144 PARK LTD. (the "Vendor") to purchase the above-noted unit, as outlined for identification purposes only on the sketch attached hereto as Schedule "A", together with one (2) Parking Unit(s) and one (1) Locker Unit(s), all of which shall be allocated by the Vendor in its sole discretion being (a) proposed unit(s) in the Condominium, to be registered against those lands and premises situate on the north east corner of Allen Street and Park Street in the City of Waterloo, and which is proposed to be municipally known as 144 Park Street, Waterloo, Ontario (hereinafter called the "Property"), together with an undivided interest in the common elements appurtenant to such unit(s) and the exclusive use of those parts of the common elements attaching to such unit(s), as set out in the proposed Declaration (collectively, the "Unit") on the following terms and conditions:

1. The purchase price of the Unit (the "Purchase Price") is Nine hundred one thousand five hundred dollars (\$ 901,500.00) DOLLARS in lawful money of Canada, payable as follows:
 - (a) to Harris, Sheaffer LLP, in Trust, (the "Vendor's Solicitors" or "Escrow Agent" or "Trustee") in the following amounts at the following times, by cheque or bank draft, as deposits pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Occupancy Date:
 - (i) the sum of FIVE THOUSAND (\$5,000.00) Dollars submitted with this Agreement;
 - (ii) the sum of Forty thousand seventy five dollars (\$40,075.00) Dollars submitted with this Agreement and post-dated fifteen (15) days following the date of execution of this Agreement by the Purchaser, and together with 1(a)(i) above represents 5% of the Purchaser Price;
 - (iii) the sum of Forty five thousand seventy five dollars (\$45,075.00) Dollars submitted with this Agreement and post-dated forty-five (45) days following the date of execution of this Agreement by the Purchaser, being 5% of the Purchaser Price;
 - (iv) the sum of Forty five thousand seventy five dollars (\$45,075.00) Dollars submitted with this Agreement and post-dated ninety (90) days following the date of execution of this Agreement by the Purchaser, being 5% of the Purchaser Price;
 - (v) the sum of Forty five thousand seventy five dollars (\$45,075.00) Dollars submitted with this Agreement and post-dated one hundred and twenty (120) days following the date of execution of this Agreement by the Purchaser, being 5% of the Purchaser Price;
 - (b) the sum of Forty five thousand seventy five dollars (\$45,075.00) Dollars by certified cheque or bank draft to the Vendor's Solicitors on the Occupancy Date, being 5% of the Purchase Price;
 - (c) the balance of the Purchase Price by certified cheque on the Title Transfer Date to the Vendor or as the Vendor may direct, subject to the adjustments hereinafter set forth.
 - (d) the Purchaser agrees to pay the sum as hereinbefore set out in paragraph 1 (a) as a deposit by cheque payable to the Escrow Agent with such last-mentioned party to hold such funds in trust as the escrow agent acting for and on behalf of TWC under the provisions of a Deposit Trust Agreement ("DTA") with respect to this proposed condominium on the express understanding and agreement that as soon as prescribed security for the said deposit money has been provided in accordance with Section 81 of the Act, 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).
2.
 - (a) The Purchaser shall occupy the Unit on the First Tentative Occupancy Date [as defined in the Statement of Critical Dates being part of the Taron Addendum as hereinafter defined], or such extended or accelerated date that the Unit is substantially completed by the Vendor for occupancy by the Purchaser in accordance with the terms of this Agreement including, without limitation, the Taron Addendum (the "Occupancy Date");
 - (b) The transfer of title to the Unit shall be completed on the later of the Occupancy Date or a date established by the Vendor in accordance with Paragraph 14 hereof (the "Title Transfer Date");
 - (c) The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is the address set out in the Taron Addendum;
 - (d) Notwithstanding anything contained in this Agreement (or in any schedules annexed hereto) to the contrary, it is expressly understood and agreed that if the Purchaser has not executed and delivered to the Vendor or its sales representative an acknowledgement of receipt of both the Vendor's disclosure statement and a copy of this Agreement duly executed by both parties hereto, within fifteen (15) days from the date of the Purchaser's execution of this Agreement as set out below, then the Purchaser shall be deemed to be in default hereunder and the Vendor shall have the unilateral right to terminate the Agreement at any time thereafter upon delivering written notice confirming such termination to the Purchaser, whereupon the Purchaser's initial deposit cheque shall be forthwith returned to the Purchaser by or on behalf of the Vendor.

The following Schedules of this Agreement, if attached hereto, shall form a part of this Agreement. If there is a form of Acknowledgement attached hereto same shall form part of this Agreement and shall be executed by the Purchaser and delivered to the Vendor on the Closing Date. The Purchaser acknowledges that he has read all Sections and Schedules of this Agreement and the form of Acknowledgement, if any:

- Schedule "A" - Unit Plan/sketch
- Schedule "B" - Features & Finishes
- Schedule "C" - Occupancy Licence
- Schedule "D" - Warning Provisions
- Schedule "E" - Receipt Confirmation
- Schedule being the Taron Warranty Corporation Statement of Critical Dates and Addendum to Agreement of Purchase and Sale (collectively the "Taron Addendum") and such other Schedules annexed hereto and specified as Schedule "___".

DATED, signed, sealed and delivered this 8 day of June, 2009

SIGNED, SEALED AND DELIVERED in the presence of
Judy Switz
WITNESS (as to all Purchaser's signatures, if more than one purchaser)

M. Magnusson PURCHASER: D.O.B. Oct. 26/51
[Signature] PURCHASER: D.O.B. June 18/50
PURCHASER'S SOLICITOR:
Address: _____
Telephone: _____ Facsimile: _____

The undersigned accepts the above offer and agrees to complete this transaction in accordance with the terms thereof.
DATED, signed, sealed and delivered, this 8 day of JUNE, 2009

Vendor's Solicitors:
HARRIS, SHEAFFER LLP
Suite 610 - 4100 Yonge Street
Toronto, Ontario, M2P 3B5
Attn: Mark L. KAROLY
Telephone: (416) 250-5800 Fax: (416) 250-5300

144 PARK LTD.
Per: [Signature]
Authorized Signing Officer
I have the authority to bind the Corporation.

3. The meaning of words and phrases used in this Agreement and its Schedules shall have the meaning ascribed to them in the *Condominium Act, 1998*, S.O. 1998, C.19, the regulations thereunder and any amendments thereto (the "Act") and other terms used herein shall have ascribed to them the definitions in the Condominium Documents unless otherwise provided for as follows:
- (a) "Agreement" means this Agreement of Purchase and Sale including all Schedules attached hereto and made a part hereof;
 - (b) "Condominium" means the condominium which will be registered against the Property pursuant to the provisions of the Act;
 - (c) "Condominium Documents" means the Creating Documents, the by-laws and rules of the Condominium, the disclosure statement and budget statement together with all other documents and agreements which are entered into by the Vendor on behalf of the Condominium or by the Condominium directly prior to the turnover of the condominium, as may be amended from time to time;
 - (d) "CRA" means the Canada Revenue Agency or its successors;
 - (e) "Creating Documents" means the declaration and description which are intended to be registered against title to the Property and which will serve to create the Condominium, as may be amended from time to time;
 - (f) "Interim Occupancy" shall mean the period of time from the Occupancy Date to the Title Transfer Date;
 - (g) "Occupancy Licence" shall mean the terms and conditions by which the Purchaser shall occupy the Unit during Interim Occupancy as set forth in Schedule "C" hereof;
 - (h) "Occupancy Fee" shall mean the sum of money payable monthly in advance by the Purchaser to the Vendor and calculated in accordance with Schedule "C" hereof;
 - (i) "Property" shall mean the lands and premises upon which the Condominium is constructed or shall be constructed and legally described in the Condominium Documents; and
 - (j) "TWC" means Tarion Warranty Corporation or its successors.

Finishes

4. The Purchase Price shall include those items listed on Schedule "B" attached hereto. The Purchaser acknowledges that only the items set out in Schedule "B" are included in the Purchase Price and that model suite/vignette furnishings and appliances, decor, upgrades, artist's renderings, scale model(s), improvements, mirrors, drapes, tracks and wall coverings are for display purposes only and are not included in the Purchase Price unless specified in Schedule "B". The Purchaser agrees to attend and notify the Vendor of his/her choice of finishes within fifteen (15) days of being requested to do so by the Vendor. In the event colours and/or finishes subsequently become unavailable, the Purchaser agrees to re-attend at such time or times as requested by the Vendor or its agents, to choose from substitute colours and/or finishes. If the Purchaser fails to choose colours or finishes within the time periods requested, the Vendor may irrevocably choose the colours and finishes for the Purchaser and the Purchaser agrees to accept the Vendor's selections.

Deposits

5. (a) The Vendor shall credit the Purchaser with interest at the prescribed rate on either the Occupancy Date or Title Transfer 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 the Declarant's solicitor or the trustee until the 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 in the Tarion Addendum. 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 resolution 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 of Canada (the "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 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 the Escrow Agent in a designated trust account, and shall be released only in accordance with the provisions of subsection 81(7) of the Act and the regulations thereto, as amended. Without limiting the generality of the foregoing, and for greater clarity, it is understood and agreed that with respect to any deposit monies received from the Purchaser the Escrow Agent shall be entitled to withdraw such deposit monies from said designated trust account prior to the Title Transfer Date if and only when the Vendor obtains a Certificate of Deposit from TWC for deposit monies up to Twenty Thousand (\$20,000.00) Dollars and with respect to deposit monies in excess of Twenty Thousand (\$20,000.00) Dollars, one or more excess condominium deposit insurance policies (issued by any insurer as may be selected by the Vendor, authorized to provide excess condominium deposit insurance in Ontario) insuring the deposit monies so withdrawn (or intended to be withdrawn), and delivers the said excess condominium deposit insurance policies (duly executed by or on behalf of the insurer and the Vendor) to the Escrow Agent holding the deposit monies for which said policies have been provided as security, in accordance with the provisions of section 21 of O. Reg. 48/01.

Adjustments

6. (a) Commencing as of the Occupancy Date, the Purchaser shall be responsible and be obligated to pay the following costs and/or charges in respect to the Unit:

- (i) all utility costs including electricity, gas and water (unless included as part of the common expenses); and
 - (ii) the Occupancy Fee owing by the Purchaser for Interim Occupancy prior to the Title Transfer Date (if applicable).
- (b) The Purchase Price shall be adjusted to reflect the following items, which shall be apportioned and allowed from the Title Transfer Date, with that day itself apportioned to the Purchaser:
- (i) realty taxes (including local improvement charges pursuant to the *Local Improvement Charges Act*, if any) which may be estimated as if the Unit has been assessed as fully completed by the taxing authority for the calendar year in which the transaction is completed as well as for the following calendar year, notwithstanding the same may not have been levied or paid on the Title Transfer Date. The Vendor shall be entitled in its sole discretion to collect from the Purchaser a reasonable estimate of the taxes as part of the Occupancy Fee and/or such further amounts on the Title Transfer Date, provided all amounts so collected shall either be remitted to the relevant taxing authority on account of the Unit or held by the Vendor pending receipt of final tax bills for the Unit, following which said realty taxes shall be readjusted in accordance with subsections 80(8) and (9) of the Act; and
 - (ii) common expense contributions attributable to the Unit, with the Purchaser being obliged to provide the Vendor on or before the Title Transfer Date with a series of post-dated cheques payable to the condominium corporation for the common expense contributions attributable to the Unit, for such period of time after the Title Transfer Date as determined by the Vendor (but in no event for more than one year).
- (c) Interest on all money paid by the Purchaser on account of the Purchase Price, shall be adjusted and credited to the Purchaser in accordance with paragraph 5 of this Agreement.
- (d) The Purchaser shall, in addition to the Purchase Price, pay the following amounts to the Vendor on the Title Transfer Date:
- (i) If there are chattels involved in this transaction, the allocation of value of such chattels shall be estimated where necessary by the Vendor and retail sales tax may be collected and remitted by the Vendor or alternatively, the Purchaser shall pay as a credit to the Vendor on the Statement of Adjustments, the provincial sales tax paid by the Vendor on account of chattels in Schedule "B";
 - (ii) Any new taxes imposed on or payable in respect to the purchase of the Unit by the federal, provincial, or municipal government or any increases to existing taxes currently imposed on the Unit by such government;
 - (iii) Any new taxes imposed on the Unit by the federal, provincial, or municipal government or any increases to existing taxes currently imposed on the Unit by such government. Without limiting the generality of any provision of this Agreement, the Purchase Price excludes provincial sales tax which may be payable on the Unit, on its own or as part of a harmonized sales tax and accordingly, if same is payable in respect of the transaction contemplated by this Agreement, it shall be paid by the Purchaser on the Unit Transfer Date in addition to the Purchase Price as an adjustment on closing or as otherwise directed by the Vendor. Without limiting the generality of the foregoing, the Purchase Price excludes Provincial Sales Tax which may be payable on the Unit which, if applicable, shall be paid by the Purchaser in addition to the Purchase Price;
 - (iv) The amount of any parks levy levied, charged or otherwise imposed with respect to the Condominium, the Property or the Unit by any governmental authority, not to exceed One Thousand Five Hundred (\$1,500.00) Dollars plus G.S.T. per unit;
 - (v) The cost of the TWC enrolment fee for the Unit (together with any provincial or federal taxes exigible with respect thereto);
 - (vi) The cost of utility meters, water meter installations, hydro and gas meter or check meter installations, water and sewer service connection charges and hydro and gas installation and connection or energization charges for the Condominium and/or the Unit, the Purchaser's portion of such installation and/or connection or energization charges and costs to be calculated by dividing the total amount of such charges and costs by the number of residential dwelling units in the Condominium and by charging the Purchaser in the statement of adjustments with that portion of the charges and costs;
 - (vii) The cost of any carbon monoxide detector installed in the Unit (if applicable);
 - (viii) The charge imposed upon the Vendor or its solicitors by the Law Society of Upper Canada upon registration of a Transfer/Deed of Land or Charge/Mortgage of Land or any other instrument;
 - (ix) A sum of Fifty (\$50.00) Dollars for each cheque tendered pursuant to paragraph 1(a) and 1(b) of this Agreement and for any cheque tendered for upgrades or any other monies paid on account of the Purchase Price up to, but not including the Title Transfer Date representing a reasonable reimbursement to the Vendor of the costs incurred or to be incurred by the Vendor in fulfillment of the requirements of subsection 81(6) of the Act;
 - (x) The Purchaser agrees to pay Three Hundred (\$300.00) Dollars towards the cost of obtaining (partial) discharges of mortgages not intended to be assumed by the Purchaser;

- (e) In the event that the Purchaser desires to increase the amount to be paid to the Vendor's solicitors on the Occupancy Date at any time after the expiry of the initial ten (10) day statutory rescission period, or wishes to vary the manner in which the Purchaser has previously requested to take title to the Property, or wishes to add or change any unit(s) being acquired from the Vendor, then the Purchaser hereby covenants and agrees to pay to the Vendor's Solicitor's the legal fees and ancillary disbursements which may be incurred by the Vendor or charged by the Vendor's Solicitors in order to implement any of the foregoing changes so requested by the Purchaser (with the Vendor's Solicitors' legal fees for implementing any such changes to any of the interim closing and/or final closing documents so requested by the Purchaser and agreed to by the Vendor being \$350.00 plus G.S.T.), but without there being any obligation whatsoever on the part of the Vendor to approve of, or to implement, any of the foregoing changes so requested.
- (f) It is further understood and agreed that the Unit may include a rental or leased furnace or hot water tank or HVAC equipment and associated components which would remain the property of the appropriate company or other supplier of such item, and in such event and where the cost of same does not comprise a common expense of the Condominium, the Purchaser shall pay the monthly rental/lease charges assessed with respect thereto from and after the Occupancy Date, and in any event shall execute all requisite rental or security documents in connection therewith.
- (g) The Purchaser acknowledges that it may be required to enter into an agreement with the supplier of hydro services to the Condominium (the "Hydro Supplier") on or before the Closing Date. Furthermore, the Purchaser acknowledges that such agreement may require the Purchaser to deliver a security deposit to the Hydro Supplier prior to the Occupancy Date and the Purchaser agrees to deliver such security deposit to the Vendor on the Occupancy Date.
- (h) It is acknowledged and agreed by the parties hereto that the Purchase Price already includes a component equivalent to the federal goods and services tax exigible with respect to this purchase and sale transaction less the new housing rebate, if applicable (hereinafter referred to as the "GST"), and that the Vendor shall remit the GST to CRA on behalf of the Purchaser forthwith following the completion of this transaction. The Purchaser hereby warrants and represents to the Vendor that with respect to this transaction, in those circumstances where the Purchase Price (exclusive of the GST component thereof) is less than \$450,000.00, the Purchaser qualifies for the new housing rebate applicable pursuant to section 254 of the *Excise Tax Act* (Canada), as amended (the "Rebate"), and further warrants and confirms that the Purchaser is a natural person who is acquiring the Property with the intention of being the sole beneficial owner thereof on the Title Transfer Date (and not as the agent or trustee for or on behalf of any other party or parties), and covenants that upon the Occupancy Date the Purchaser or one or more of the Purchaser's relations (as such term is defined in the *Excise Tax Act*) shall personally occupy the Unit as his, her or their primary place of residence, for such period of time as shall be required by the *Excise Tax Act*, and any other applicable legislation, in order to entitle the Purchaser to the Rebate (and the ultimate assignment thereof to and in favour of the Vendor) in respect of the Purchaser's acquisition of the Unit. The Purchaser further warrants and represents that he or she has not claimed (and hereby covenants that the Purchaser shall not hereafter claim), for the Purchaser's own account, any part of the Rebate in connection with the Purchaser's acquisition of the Unit, save as otherwise hereinafter expressly provided or contemplated. The Purchaser hereby irrevocably assigns to the Vendor all of the Purchaser's rights, interests and entitlements to the Rebate (and concomitantly releases all of the Purchaser's claims or interests in and to the Rebate, to and in favour of the Vendor), and hereby irrevocably authorizes and directs CRA to pay or credit the Rebate directly to the Vendor. In addition, the Purchaser shall execute and deliver to the Vendor, forthwith upon the Vendor's request for same (and in any event on or before the Title Transfer Date), all requisite documents and assurances that the Vendor may reasonably require in order to confirm the Purchaser's entitlement to the Rebate and/or to enable the Vendor to obtain the benefit of the Rebate (by way of assignment or otherwise), including without limitation, the New Housing Application for Rebate of Goods and Services Tax Form as prescribed from time to time, (the "Rebate Form"). The Purchaser covenants and agrees to indemnify and save the Vendor harmless from and against any loss, cost, damage and/or liability (including an amount equivalent to the Rebate, plus penalties and interest thereon) which the Vendor may suffer, incur or be charged with, as a result of the Purchaser's failure to qualify for the Rebate, or as a result of the Purchaser having qualified initially 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). As security for the payment of such amount, the Purchaser does hereby charge and pledge his/her interest in the Unit with the intention of creating a lien or charge against same. It is further understood and agreed by the parties hereto that:
- (i) if the Purchaser does not qualify for the Rebate, or fails to deliver to the Vendor or the Vendor's solicitors forthwith upon the Vendor's request for same (and in any event on or before the Title Transfer Date) the Rebate Form duly executed by the Purchaser, together with all other requisite documents and assurances that the Vendor may reasonably require from the Purchaser or the Purchaser's solicitor in order to confirm the Purchaser's eligibility for the Rebate and/or to ensure that the Vendor ultimately acquires (or is otherwise assigned) the benefit of the Rebate; or
- (ii) if the Vendor believes, for whatever reason, that the Purchaser does not qualify for the Rebate, regardless of any documentation provided by or on behalf of the Purchaser (including any statutory declaration sworn by the Purchaser) to the contrary, and the Vendor's belief or position on this matter is communicated to the Purchaser or the Purchaser's solicitor on or before the Title 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 Title Transfer Date, an amount equivalent to the Rebate, in addition to the Purchase Price and 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) CRA. It is further understood and agreed that in the event that the Purchaser intends to rent out the Unit before the Title Transfer Date with the express written approval of the Vendor before or after the Title Transfer Date, the Purchaser shall not be entitled to the Rebate, but may nevertheless be entitled to

pursue, on his or her own after the Title Transfer Date, the new residential rental property rebate directly with CRA, pursuant to section 256.2 of the *Excise Tax Act*.

- (i) Notwithstanding any other provision herein contained in this Agreement, the Purchaser acknowledges and agrees that the Purchase Price does not include any G.S.T. exigible with respect to any of the adjustments payable by the Purchaser pursuant to this Agreement, or any extras or upgrades purchased, ordered or chosen by the Purchaser from the Vendor which are not specifically set forth in this Agreement, and the Purchaser covenants and agrees to pay such G.S.T. to the Vendor in accordance with the *Excise Tax Act*. In addition, and without limiting the generality of the foregoing, in the event that the Purchase Price is increased by the addition of extras, changes, upgrades or adjustments and as a result of such increase, the quantum of the Rebate that would otherwise be available is reduced or extinguished (the quantum of such reduction being hereinafter referred to as the "Reduction"), then the Purchaser shall pay to the Vendor on the Title Transfer Date (as determined by the Vendor in its sole and absolute discretion) the Reduction.
- (j) An administration fee of TWO HUNDRED AND FIFTY (\$250.00) DOLLARS shall be charged to the Purchaser for any cheque payable hereunder delivered to the Vendor or to the Vendor's Solicitors and not accepted by the Vendor or the Vendor's Solicitor's bank for any reason. At the Vendor's option, this administration fee can be collected as an adjustment on the Title Transfer Date or together with the replacement cheque delivered by the Purchaser.

Title

7. The Vendor or its Solicitor shall notify the Purchaser or his/her Solicitor following registration of the Creating Documents so as to permit the Purchaser or his/her Solicitor to examine title to the Unit (the "Notification Date"). The Purchaser shall be allowed twenty (20) days from the Notification Date (the "Examination Period") to examine title to the Unit at the Purchaser's own expense and shall not call for the production of any surveys, title deeds, abstracts of title, grading certificates, occupancy permits or certificates, nor any other proof or evidence of the title or abstractability of the Unit, except such copies thereof as are in the Vendor's possession. If within the Examination Period, any valid objection to title or to any outstanding work order is made in writing to the Vendor 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 null and void and the deposit monies together with the interest required by the Act to be paid after deducting any payments due to the Vendor by the Purchaser as provided for in this Agreement shall be returned to the Purchaser and the Vendor shall have no further liability or obligation hereunder and shall not be liable for any costs or damages. Save as to any valid objections so made within the Examination Period, 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 or on behalf of the Purchaser through the use of a standard title memorandum or title advice statement prepared by the Vendor's Solicitors, and that same shall constitute a satisfactory manner of responding to the Purchaser's requisitions, thereby relieving the Vendor and the Vendor's Solicitors of the requirement to respond directly or specifically to the Purchaser's requisitions.

Direction Re: Title

8. The Purchaser hereby agrees to submit to the Vendor or the Vendor's Solicitors on the earlier of the Occupancy Date and twenty (20) days prior to the Title Transfer Date, a written direction as to how the Purchaser intends to take title to the Unit, including, the date(s) of birth and marital status and the Purchaser shall be required to close the transaction in the manner so advised unless the Vendor otherwise consents in writing, which consent may be arbitrarily withheld. If the Purchaser does not submit such confirmation within the required time as aforesaid the Vendor shall be entitled to tender a Transfer/Deed on the Title Transfer Date engrossed in the name of the Purchaser as shown on the face of this Agreement.

Permitted Encumbrances

9. (a) The Purchaser agrees to accept title subject to the following:
 - (i) the Condominium Documents, notwithstanding that they may be amended and varied from the proposed Condominium Documents in the general form attached to the Disclosure Statement delivered to the Purchaser as set out in Schedule "B";
 - (ii) registered restrictions or covenants that run with the Property, including any encroachment agreement(s) with any governmental authorities or adjacent land owner(s), provided that same are complied with as at the Title Transfer Date;
 - (iii) easements, rights-of-way and/or licences now registered (or to be registered hereafter) for the supply and installation of utility services, drainage, telephone services, electricity, gas, storm and/or sanitary sewers, water, cable television/internet, recreational and shared facilities, and/or any other service(s) to or for the benefit of the Condominium (or to any adjacent or neighbouring properties), including any easement(s) which may be required by the Vendor (or by the owner of the Property, if not one and the same as the Vendor), or by any owner(s) of adjacent or neighbouring properties, for servicing and/or access to (or entry from) such properties, together with any easement and cost-sharing agreement(s) or reciprocal agreement(s) confirming (or pertaining to) any easement or right-of-way for access, egress, support and/or servicing purposes, and/or pertaining to the sharing of any services, facilities and/or amenities with adjacent or neighbouring property owners, provided that any such easement and cost-sharing agreements or reciprocal agreements are (insofar as the obligations thereunder pertaining to the Property, or any portion thereof, are concerned) complied with as at the Title Transfer Date;
 - (iv) registered municipal agreements and registered agreements with publicly regulated utilities and/or with local ratepayer associations, including without limitation, any development, site plan, condominium, subdivision, Section 37, collateral, limiting distance, engineering and/or other municipal agreement (or similar agreements entered into with any governmental authorities including any amendments or addenda related thereto); (with all of such agreements being hereinafter collectively referred to as the "Development Agreements"), provided that same are

complied with as at the Title Transfer Date, or security has been posted in such amounts and on such terms as may be required by the governmental authorities to ensure compliance therewith and/or the completion of any outstanding obligations thereunder; and

- (v) unregistered or inchoate liens for unpaid utilities in respect of which no formal bill, account or invoice has been issued by the relevant utility authority (or if issued, the time for payment of same has not yet expired); without any claim or request by the Purchaser for any utility holdback(s) or reduction/abatement in the Purchase Price, provided that the Vendor delivers to the Purchaser the Vendor's written undertaking to pay all outstanding utility accounts owing with respect to the Property (including any amounts owing in connection with any final meter reading(s) taken on or immediately prior to the Title Transfer Date, if applicable), as soon as reasonably possible after the completion of this transaction;
- (b) It is understood and agreed that the Vendor shall not be obliged to obtain or register on title to the property a release of (or an amendment to) any of the aforementioned easements, Development Agreements, reciprocal agreements or restrictive covenants of any of the other aforementioned agreements or notices, nor shall the Vendor be obliged to have any of same deleted from the title to the Property; and the Purchaser hereby expressly acknowledges and agrees that the Purchaser shall satisfy himself or herself as to compliance therewith. The Purchaser agrees to observe and comply with the terms and provisions of the Development Agreements, and all restrictive covenants registered on title. The Purchaser further acknowledges and agrees that the retention by the local municipality within which the Property is situate (the "Municipality"), or by any of the other governmental authorities, of security (e.g. in the form of cash, letters of credit, a performance bond, etc., satisfactory to the Municipality and/or any of the other governmental authorities) intended to guarantee the fulfilment of any outstanding obligations under the Development Agreements shall, for the purposes of the purchase and sale transaction contemplated hereunder, be deemed to be satisfactory compliance with the terms and provisions of the Development Agreements. The Purchaser also acknowledges that the wires, cables and fittings comprising the cable television system serving the Condominium are (or may be) owned by the local cable television supplier; or by a company associated, affiliated with or related to the Vendor.
- (c) The Purchaser covenants and agrees to consent to the matters referred to in subparagraph 9(a) hereof and to execute all documents and do all things requisite for this purpose, either before or after the Title Transfer Date;
- (d) In the event that the Vendor is not the registered owner of the Property, the Purchaser agrees to accept a conveyance of title from the registered owner together with the owner's title covenants in lieu of the Vendor's.
- (e) The Vendor shall be entitled to insert in the Transfer/Deed of Land, specific covenants by the Purchaser pertaining to any or all of the restrictions, easements, covenants and agreements referred to herein and in the Condominium Documents, and in such case, the Purchaser may be required to deliver separate written covenants on closing. If so requested by the Vendor, the Purchaser covenants to execute all documents and instruments required to convey or confirm any of the easements, licences, covenants, agreements, and/or rights, required pursuant to this Agreement and shall observe and comply with all of the terms and provisions therewith. The Purchaser may be required to obtain a similar covenant (enforceable by and in favour of the Vendor), in any agreement entered into between the Purchaser and any subsequent transferee of the Unit.

Vendor's Lien

- 10. The Purchaser agrees that the Vendor shall have a Vendor's Lien for unpaid purchase monies on the Title Transfer Date and shall be entitled to register a Notice of Vendor's Lien against the Unit any time after the Title Transfer Date.

Partial Discharges

- 11. The Purchaser acknowledges that the Unit may be encumbered by mortgages (and collateral security thereto) which are not intended to be assumed by the Purchaser and that the Vendor shall not be obliged to obtain and register (partial) discharges of such mortgages insofar as they affect the Unit on the Title Transfer Date. The Purchaser agrees to accept the Vendor's Solicitors' undertaking to obtain and register (partial) discharges of such mortgages in respect of the Unit, as soon as reasonably possible after the Title Transfer Date subject to the Vendor or its solicitors providing to the Purchaser or the Purchaser's Solicitor the following:
 - (a) a mortgage statement or letter from the mortgagee(s) (or from their respective solicitors) confirming the amount, if any, required to be paid to the mortgagee(s) to obtain (partial) discharges of the mortgages with respect to the Unit;
 - (b) a direction from the Vendor to the Purchaser to pay such amounts to the mortgagee(s) (or to whomever the mortgagees may direct) on the Title Transfer Date to obtain a (partial) discharge of the mortgage(s) with respect to the Unit; and
 - (c) an undertaking from the Vendor's Solicitors to deliver such amounts to the mortgagees and to obtain and register the (partial) discharge of the mortgages with respect to the Unit upon receipt thereof and within a reasonable time following the Title Transfer Date and to advise the Purchaser or the Purchaser's Solicitor concerning registration particulars by posting same on the internet.

Construction Lien Act

- 12. The Purchaser covenants and agrees that he/she is a "home buyer" within the meaning of the *Construction Lien Act*, R.S.O. 1990, c.C.30 and will not claim any lien holdback on the Occupancy Date or Title Transfer Date. The Vendor shall complete the remainder of the Condominium according to its schedule of completion and neither the Occupancy Date nor the Title Transfer Date shall be delayed on that account.

The Planning Act

- 13. This Agreement and the transaction arising therefrom are conditional upon compliance with the provisions of section 50 of the *Planning Act*, R.S.O. 1990, c.P.13 and any amendments thereto on or before the Title Transfer Date.

Title Transfer Date

- 14. (a) The provisions of the Taron Addendum reflect the TWC's policies, regulations and/or guidelines on extensions of the First Tentative Occupancy Date, but it is expressly understood and agreed by the parties hereto that any failure to provide notice(s) of the extension(s) of the First Tentative Occupancy Date, Subsequent Tentative Occupancy Dates or Firm Occupancy Date, in accordance with the provisions of the Taron Addendum shall only give rise to a damage claim by the Purchaser against the Vendor up to a maximum of \$7,500.00, as more particularly set forth in the Regulations to the *Ontario New Home Warranties Plan Act*, R.S.O. 1990, as amended (the "ONHWPA"), and under no circumstances shall the Purchaser be entitled to terminate this transaction or otherwise rescind this Agreement as a result thereof, other than in accordance with the Taron Addendum.
- (b) The Vendor's Solicitors shall designate a date not less than twenty (20) days after written notice is given to the Purchaser or his or her solicitor of the registration of the Creating Documents as the Title Transfer Date. The Title Transfer Date, once designated may be extended from time to time by the Vendor's Solicitors provided that it shall not be more than twenty-four (24) months following the Occupancy Date.

Purchaser's Covenants, Representations and Warranties

- 15. The Purchaser covenants and agrees that this Agreement is subordinate to and postponed to any mortgages arranged by the Vendor and any advances thereunder from time to time, and to any easement, license or other agreement concerning the Condominium and the Condominium Documents. The Purchaser further agrees to consent to and execute all documentation as may be required by the Vendor in this regard and the Purchaser hereby irrevocably appoints the Vendor as the Purchaser's attorney to execute any consents or other documents required by the Vendor to give effect to this paragraph. The Purchaser hereby consents to the Vendor obtaining a consumer's report containing credit and/or personal information for the purposes of this transaction. The Purchaser further agrees to deliver to the Vendor, from time to time, within ten (10) days of written demand from the Vendor, 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 Title 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. Without limiting the generality of the foregoing and notwithstanding any other provision in this Agreement to the contrary, within ten (10) days of written demand from the Vendor, the Purchaser agrees to produce evidence of a satisfactory mortgage approval signed by a lending institution or other mortgagee acceptable to the Vendor confirming that the said lending institution or acceptable mortgagee will be advancing funds to the Purchaser sufficient to pay the balance due on the Title Transfer Date. If the Purchaser fails to provide the mortgage approval as aforesaid, then the Purchaser shall be deemed to be in default under this Agreement. The Vendor may, in its sole discretion, elect to accept in the place of such mortgage commitment, other evidence satisfactory to the Vendor that the Purchaser will have sufficient funds to pay the balance due on the Title Transfer Date.
- 16. The Purchaser acknowledges that notwithstanding any rule of law to the contrary, that by executing this Agreement, it has not acquired any equitable or legal interest in the Unit or the Property. The Purchaser covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, Purchaser's Lien, or any other document providing evidence of this Agreement against title to the Property, Unit or the Condominium and further agrees not to give, register, or permit to be registered any encumbrance against the Property, Unit or the Condominium. Should the Purchaser be in default of his or her obligations hereunder, the Vendor may, as agent and attorney of the Purchaser, cause the removal of notice of this Agreement, caution or other document providing evidence of this Agreement or any assignment thereof, from the title to the Property, Unit or the Condominium. In addition, the Vendor, at its option, shall have the right to declare this Agreement null and void in accordance with the provisions of paragraph 26 hereof. The Purchaser hereby irrevocably consents to a court order removing such notice of this Agreement, any caution, or any other document or instrument whatsoever from title to the Property, Unit or the Condominium and the Purchaser agrees to pay all of the Vendor's costs and expenses in obtaining such order (including the Vendor's Solicitor's fees on a full indemnity basis).
- 17. The Purchaser covenants not to list for sale or lease, advertise for sale or lease, sell or lease; nor in any way assign his or her interest under this Agreement, or the Purchaser's rights and interests hereunder or in the Unit, nor directly or indirectly permit any third party to list or advertise the Unit for sale or lease, at any time until after the Title Transfer Date, without the prior written consent of the Vendor, which consent may be arbitrarily withheld. The Purchaser acknowledges and agrees that once a breach of the preceding covenant occurs, such breach is or shall be incapable of rectification, and accordingly the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement and the Occupancy License, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default, shall apply. 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.
- 18. The Purchaser acknowledges that the Vendor is (or may in the future be) processing and/or completing one or more rezoning or minor variance applications with respect to the Lands (and/or the lands adjacent thereto or in the neighbouring vicinity thereof), as well as a site plan approval/development application/draft plan of condominium approval with respect to the Lands, in order to permit the development and construction of the Condominium thereon. The Purchaser acknowledges that during the rezoning, minor variance, site plan and/or draft plan of condominium approval process, the footprint or siting of the condominium building may shift from that originally proposed or intended, the overall height of the condominium building (and the number of levels/floors, and/or the number of dwelling units comprising the Condominium) may vary, and the location of the Condominium's proposed amenities may likewise be altered, without adversely affecting the floor plan layout, design and size of the interior of the Unit, and the Purchaser hereby expressly agrees to complete this transaction notwithstanding the foregoing, without any abatement in the Purchase Price, and without any entitlement to a claim for damages or other compensation whatsoever. The Purchaser further covenants and agrees that it shall not oppose the aforementioned zoning, minor variance and site plan/development applications, nor any other applications ancillary thereto, including without

limitation, any application submitted or pursued by or on behalf of the Vendor to lawfully permit the development and registration of the Condominium; or to obtain an increase in the density coverage or the dwelling unit count (or yield) thereof, or for any other lawful purpose whatsoever, and the Purchaser expressly acknowledges and agrees that this covenant may be pleaded as an estoppel or bar to any opposition or objection raised by the Purchaser thereto.

- 19. The Purchaser covenants and agrees that he/she 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 and transferred the Vendor may make such use of the Condominium as may facilitate the completion of the Condominium and sale of all the units, including, but not limited to the maintenance of a sales/rental/administration/construction office(s) and model units, and the display of signs located on the Property.

Termination without Default

- 20. In the event this Agreement is terminated through no fault of the Purchaser, all deposit monies paid by the Purchaser towards the Purchase Price, together with any interest required by law to be paid, shall be returned to the Purchaser; provided however, that the Vendor shall not be obligated to return any monies paid by the Purchaser as an Occupancy Fee. The Vendor shall be entitled to require the Purchaser to execute a release of any surety, lender or any other third party requested by the Vendor in its discretion prior to the return of such monies. In no event shall the Vendor or its agents be liable for any damages or costs whatsoever and without limiting the generality of the foregoing, for any loss of bargain, for any relocating costs, or for any professional or other fees paid in relation to this transaction. This provision may be pleaded by the Vendor as a complete defence to any such claim.

Tarion Warranty Corporation

- 21. The Vendor represents and warrants to the Purchaser that the Vendor is a registered vendor/builder with the TWC. The Purchaser acknowledges and agrees that any warranties of workmanship or materials, in respect of any aspect of the construction of the Condominium including the Unit, whether implied by this Agreement or at law or in equity or by any statute or otherwise, shall be limited to only those warranties deemed to be given by the Vendor under the ONHWPA and shall extend only for the time period and in respect of those items as stated in the ONHWPA, 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, the Condominium or the Unit, other than as expressed herein. The Purchaser hereby irrevocably appoints the Vendor his/her agent to complete and execute the TWC Certificate of Deposit and any excess condominium deposit insurance documentation in this regard, as required, both on its own behalf and on behalf of the Purchaser.

Right of Entry

- 22. Notwithstanding the Purchaser occupying the Unit on the Occupancy Date or the closing of this transaction and the delivery of title to the Unit to the Purchaser, as applicable, the Vendor or any person authorized by it shall be entitled at all reasonable times and upon reasonable prior notice to the Purchaser to enter the Unit and the common elements in order to make inspections or to do any work or replace therein or thereon which may be deemed necessary by the Vendor in connection with the Unit or the common elements and such right shall be in addition to any rights and easements created under the Act. A right of entry in favour of the Vendor for a period not exceeding five (5) years similar to the foregoing may be included in the Transfer/Deed provided on the Title Transfer Date and acknowledged by the Purchaser at the Vendor's sole discretion.

Occupancy

- 23. (a) The Unit shall be deemed to be substantially completed when the interior work has been finished to the minimum standards allowed by the Municipality so that the Unit may be lawfully occupied notwithstanding that there remains other work within the Unit and/or the common elements to be completed. The Purchaser shall not occupy the Unit until the Municipality has permitted same or consented thereto, if such consent is required and the Occupancy Date shall be postponed until such required consent is given. The Purchaser shall not require the Vendor to provide or produce an occupancy permit, certificate or authorization from the Municipality other than the documentation required by paragraph 8 of the Tarion Addendum. Provided that the Vendor complies with paragraph 8 of the Tarion Addendum, the Purchaser acknowledges that the failure to complete the common elements before the Occupancy Date shall not be deemed to be failure to complete the Unit, and the Purchaser agrees to complete this transaction notwithstanding any claim submitted to the Vendor and/or to the TWC in respect of apparent deficiencies or incomplete work provided, always, that such incomplete work does not prevent occupancy of the Unit as, otherwise, permitted by the Municipality.
- (b) If the Unit is substantially complete and fit for occupancy on the Occupancy Date, as provided for in subparagraph (a) above, but the Creating Documents have not been registered, (or in the event the Condominium is registered prior to the Occupancy Date and closing documentation has yet to be prepared), the Purchaser shall pay to the Vendor a further amount on account of the Purchase Price specified in paragraph 1(b) hereof without adjustment save for any pro-rated portion of the Occupancy Fee described and calculated in Schedule "C", and the Purchaser shall occupy the Unit on the Occupancy Date pursuant to the Occupancy Licence attached hereto as Schedule "C".

Inspection

- 24. (a) The Purchaser or the Purchaser's designate as hereinafter provided agrees to meet the Vendor's representative at the date and time designated by the Vendor, prior to the Occupancy Date, to conduct a pre-delivery inspection of the Unit (the "PDI") and to list all items remaining incomplete at the time of such inspection together with all mutually agreed deficiencies with respect to the Unit, on the TWC Certificate of Completion and Possession (the "CCP") and the PDI Form, in the forms prescribed from time to time by, and required to be completed pursuant to the provisions of the ONHWPA. The said CCP and PDI Forms shall be executed by both the Purchaser or the Purchaser's designate and the Vendor's representative at the PDI and shall constitute the Vendor's only undertaking with respect to incomplete or deficient work and the Purchaser shall not require any further undertaking of the Vendor to complete any outstanding items. In the event that the Vendor performs any additional work to the Unit in its discretion, the Vendor shall not be deemed to have waived the provision of this paragraph or otherwise enlarged its obligations hereunder.

- (b) The Purchaser acknowledges that the Homeowner Information Package as defined in TWC Bulletin 42 (the "HIP") is available from TWC and that the Vendor further agrees to provide the HIP to the Purchaser or the Purchaser's designate, at or before the PDI. The Purchaser or the Purchaser's designate agrees to execute and provide to the Vendor the Confirmation of Receipt of the HIP forthwith upon receipt of the HIP.
- (c) The Purchaser shall be entitled to send a designate to conduct the PDI in the Purchaser's place or attend with their designate, provided the Purchaser first provides to the Vendor a written authority appointing such designate for PDI prior to the PDI. If the Purchaser appoints a designate, the Purchaser acknowledges and agrees that the Purchaser shall be bound by all of the documentation executed by the designate to the same degree and with the force and effect as if executed by the Purchaser directly.
- (d) In the event the Purchaser and/or the Purchaser's designate fails to attend the PDI or fails to execute the CCP and PDI Forms at the conclusion of the PDI, the Vendor may declare the Purchaser to be in default under this Agreement and may exercise any or all of its remedies set forth in this Agreement of Purchase and Sale and/or at law. Alternatively, the Vendor may, at its option, complete the within transaction but not provide the keys to the Unit to the Purchaser until the CCP and PDI Forms have been executed by the Purchaser and/or its designate or complete the within transaction and complete the CCP and PDI Forms on behalf of the Purchaser and/or the Purchaser's designate and the Purchaser hereby irrevocably appoints the Vendor the Purchaser's attorney and/or agent and/or designate to complete the CCP and PDI Forms on the Purchaser's behalf and the Purchaser shall be bound as if the Purchaser or the Purchaser's designate had executed the CCP and PDI Forms.
- (e) In the event the Purchaser and/or the Purchaser's designate fails to execute the Confirmation of Receipt of the HIP forthwith upon receipt thereof, the Vendor may declare the Purchaser to be in default under this Agreement and may exercise any or all of its remedies set forth in this Agreement of Purchase and Sale and/or at law.

Purchaser's Default

25. (a) In the event that the Purchaser is in default with respect to any of his or her obligations contained in this Agreement (other than paragraph 2(d) hereof) or in the Occupancy License on or before the Title Transfer Date and fails to remedy such default forthwith, if such default is a monetary default and/or pertains to the execution and delivery of documentation required to be given to the Vendor on the Occupancy Date or the Title Transfer Date, or within five (5) days of the Purchaser being so notified in writing with respect to any other non-monetary default, then the Vendor, in addition to (and without prejudice to) any other rights or remedies available to the Vendor (at law or in equity) may, at its sole option, unilaterally suspend all of the Purchaser's rights, benefits and privileges contained herein (including without limitation, the right to make colour and finish selections with respect to the Unit as hereinbefore provided or contemplated), and/or unilaterally declare this Agreement and the Occupancy License to be terminated and of no further force or effect. All monies paid hereunder (including the deposit monies paid or agreed to be paid by the Purchaser pursuant to this Agreement which sums shall be accelerated on demand of the Vendor), together with any interest earned thereon and monies paid or payable for extras or upgrades or changes ordered by the Purchaser, whether or not installed in the Dwelling, shall be forfeited to the Vendor. The Purchaser agrees that the forfeiture of the aforesaid monies shall not be a penalty and it shall not be necessary for the Vendor to prove it suffered any damages in order for the Vendor to be able to retain the aforesaid monies. The Vendor shall in such event still be entitled to claim damages from the Purchaser in addition to any monies forfeited to the Vendor. The aforesaid retention of monies is in addition to (and without prejudice to) any other rights or remedies available to the Vendor at law or in equity. In the event of the termination of this Agreement and/or the Occupancy License by reason of the Purchaser's default as aforesaid, then the Purchaser shall be obliged to forthwith vacate the Unit (or cause same to be forthwith vacated) if same has been occupied (and shall leave the Unit in a clean condition, without any physical or cosmetic damages thereto, and clear of all garbage, debris and any furnishings and/or belongings of the Purchaser), and shall execute such releases and any other documents or assurances as the Vendor may require, in order to confirm that the Purchaser does not have (and the Purchaser hereby covenants and agrees that he/she does not have) any legal, equitable or proprietary interest whatsoever in the Unit and/or the Property (or any portion thereof) prior to the completion of this transaction and the payment of the entire Purchase Price to the Vendor or the Vendor's solicitors as hereinbefore provided, and in the event the Purchaser fails or refuses to execute same, the Purchaser hereby appoints the Vendor to be his or her lawful attorney in order to execute such releases, documents and assurances in the Purchaser's name, place and stead, and in accordance with the provisions of the *Powers of Attorney Act*, R.S.O. 1990; as amended, the Purchaser hereby declares that this power of attorney may be exercised by the Vendor during any subsequent legal incapacity on the part of the Purchaser. In the event the Vendor's Solicitors or an Escrow Agent is/are holding any of the deposits in trust pursuant to this Agreement, then in the event of default as aforesaid, the Purchaser hereby releases the said solicitors or Escrow Agent from any obligation to hold the deposit monies, in trust, and shall not make any claim whatsoever against the said solicitors or Escrow Agent and the Purchaser hereby irrevocably directs and authorizes the said solicitors or Escrow Agent to deliver the said deposit monies and accrued interest, if any, to the Vendor.
- (b) Notwithstanding subparagraph (a) above, the Purchaser acknowledges and agrees that if any amount, payment and/or adjustment which are due and payable by the Purchaser to the Vendor pursuant to this Agreement are not made and/or paid on the date due, but are subsequently accepted by the Vendor, notwithstanding the Purchaser's default, then such amount, payment and/or adjustment shall, until paid, bear interest at the rate equal to eight (8%) percent per annum above the bank rate as defined in subsection 19(2) of O. Reg. 48/01 to the Act at the date of default.

Common Elements

26. The Purchaser acknowledges that the Condominium will be constructed to Ontario Building Code requirements at the time of issuance of the building permit. The Purchaser covenants and agrees the Purchaser shall have no claims against the Vendor for any equal, higher or better standards of workmanship or materials. The Purchaser agrees that the foregoing may be pleaded by the Vendor as an estoppel in any action brought by the Purchaser or his/her successors in title against the Vendor. The Vendor may, from time to time, change, vary or modify in its sole discretion or at the instance of any governmental authority or mortgagee, any elevations, building specifications or site plans of any part of

the Condominium, to conform with any municipal or architectural requirements related to building codes, official plan or official plan amendments, zoning by-laws, committee of adjustment and/or land division committee decisions, municipal site plan approval or architectural control. Such changes may be to the plans and specifications existing at inception of the Condominium or as they existed at the time the Purchaser entered into this Agreement; or as illustrated on any sales material, including without limitation, brochures, models or otherwise. With respect to any aspect of construction, finishing or equipment, the Vendor shall have the right, without the Purchaser's consent, to substitute materials, for those described in this Agreement or in the plans or specifications, provided the substituted materials are in the judgment of the Vendor's architect, whose determination shall be final and binding, of equal or better quality. The Purchaser shall have no claim against the Vendor for any such changes, variances or modifications nor shall the Vendor be required to give notice thereof. The Purchaser hereby consents to any such alterations and agrees to complete the sale notwithstanding any such modifications.

Executions

27. The Purchaser agrees to provide to the Vendor's Solicitors on the Occupancy Date a clear and up-to-date Execution Certificate confirming that no executions are filed at the local Land Titles Office against the individual(s) in whose name title to the Unit is being taken.

Risk

28. The Unit shall be and remain at the risk of the Vendor until the Title Transfer Date, subject to the terms of the Occupancy Licence attached hereto as Schedule "C". If any part of the Condominium is damaged before the Creating Documents are registered, the Vendor may in its sole discretion either:

- (a) make such repairs as are necessary to complete this transaction and, if necessary, delay the Occupancy Date in the manner permitted in paragraph 7 of the Tarion Addendum;
- (b) terminate this Agreement and return to the Purchaser all deposit monies paid by the Purchaser to the Vendor, with interest payable under law if the damage to the Condominium has frustrated this Agreement at law; or
- (c) apply to a court of competent jurisdiction for an order terminating the Agreement in accordance with the provisions of subsection 79(3) of the Act.

it being understood and agreed that all insurance policies and the proceeds thereof are to be for the benefit of the Vendor alone.

Tender/Termet

29. (a) The parties waive personal tender and agree that tender, in the absence of any other mutually acceptable arrangement and subject to the provisions of paragraph 30 of this Agreement shall be validly made by the Vendor upon the Purchaser, by a representative of the Vendor attending at the offices of Harris, Sheaffer, LLP at 12:00 noon on the Title Transfer Date or the Occupancy Date as the case may be and remaining there until 5:00 p.m. and is ready, willing and able to complete the transaction. The Purchaser agrees that keys may be released to the Purchaser as the construction site or sales office on the Occupancy Date or the Title Transfer Date, as applicable. The Vendor's advice that the keys are available shall be valid tender of possession of the Property to the Purchaser. In the event the Purchaser or his or her solicitor fails to appear or appears and fails to close, such attendance by the Vendor's representative (which includes the Vendor's Solicitors) shall be deemed satisfactory evidence that the Vendor is ready, willing and able to complete the sale at such time. Payment shall be tendered by certified cheque drawn on any Canadian chartered bank; and
- (b) It is further provided that, notwithstanding subparagraph 29 (a) hereof, in the event the Purchaser or his or her solicitor advise the Vendor or its Solicitors, on or before the Occupancy Date or Title Transfer Date, as applicable, that the Purchaser is unable or unwilling to complete the purchase or take occupancy, the Vendor is relieved of any obligation to make any formal tender upon the Purchaser or his or her solicitor and may exercise forthwith any and all of its right and remedies provided for in this Agreement and at law.

30. As the electronic registration system (hereinafter referred to as the "Termet Electronic Registration System" or "TERS") is operative in the applicable Land Titles Office in which the Property is registered, then at the option of the Vendor's solicitor, the following provisions shall prevail:

- (a) The Purchaser shall be obliged to retain a solicitor, who is both an authorized TERS user and in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction. The Purchaser shall authorize such solicitor to, at the option of the Vendor's Solicitors, either execute an escrow closing agreement with the Vendor's Solicitor on the standard form recommended by the Law Society of Upper Canada (hereinafter referred to as the "Escrow Document Registration Agreement") establishing the procedures and timing for completing this transaction or to otherwise agree to be bound by the procedures set forth in the Escrow Document Registration Agreement.
- (b) The delivery and exchange of documents, monies and keys to 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, keys and/or certified funds will be required to hold same in escrow, and will not be entitled to release same except in strict accordance with the provisions of the Escrow Document Registration Agreement.
- (c) If the Purchaser's solicitor is unwilling or unable to complete this transaction via TERS, in accordance with the provisions contemplated under the Escrow Document Registration Agreement, then said solicitor (or the authorized agent thereof) shall be obliged to personally attend at the office of the Vendor's solicitor, at such

time on the Title Transfer Date as may be directed by the Vendor's solicitor or as mutually agreed upon, in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's solicitor's office, and shall pay a fee as determined by the Vendor's solicitor, acting reasonably for the use of the Vendor's computer facilities.

- (d) The Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the Transfer/Deed 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 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/Deed for registration.
- (e) Each of the parties hereto agrees that the delivery of any documents not intended for registration on title to the Unit may be delivered to the other party hereto by telefax transmission (or by a similar system reproducing the original or by electronic transmission of electronically signed documents through the Internet), provided that all documents so transmitted have been duly and properly executed by the appropriate parties/signatories thereto which may be by electronic signature. The party transmitting any such document shall also deliver the original of same (unless the document is an electronically signed document pursuant to the *Electronic Commerce Act*) to the recipient party by overnight courier sent the day of closing or within 7 business days of closing, if same has been so requested by the recipient party.
- (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 and keys are made available for the Purchaser to pick up at the Vendor's sales or customer service office;
 - (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 TERS in order to complete this transaction that can be performed or undertaken by the Vendor's solicitor without the cooperation or participation of the Purchaser's solicitor, and specifically when the "completeness signatory" for the transfer/deed has been electronically "signed" by the Vendor's solicitor;

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

General

- 31. The Vendor shall provide a statutory declaration on the Title Transfer Date that it is not a non-resident of Canada within the meaning of the ITA.
- 32. The Vendor and Purchaser agree to pay the costs of registration of their own documents and any tax in connection therewith.
- 33. The Vendor and the Purchaser agree that there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Property or supported hereby other than as expressed herein in writing.
- 34. This Offer and its acceptance is to be read with all changes of gender or number required by the context and the terms, provisions and conditions hereof shall be for the benefit of and be binding upon the Vendor and the Purchaser, and as the context of this Agreement permits, their respective heirs, estate trustees, successors and permitted assigns.
- 35. The Purchaser acknowledges that the suite area of the Unit, as may be represented or referred to by the Vendor or any sales agent, or which appears in any sales material is approximate only, and is generally measured to the outside of all exterior, corridor and stairwell walls, and to the centre line of all party walls separating one unit from another. NOTE: For more information on the method of calculating the floor area of any unit, reference should be made to Builder Bulletin No. 22 published by the TWC. Actual useable floor space may (therefore) vary from any stated or represented floor area or gross floor area, and the extent of the actual or useable living space within the confines of the Unit may vary from any represented square footage or floor area measurement(s) made by or on behalf of the Vendor. In addition, the Purchaser is advised that the floor area measurements are generally calculated based on the middle floor of the Condominium building for each suite type; such that units on lower floors may have less floor space due to thicker structural members, mechanical rooms; etc., while units on higher floors may have more floor space. Accordingly, the Purchaser hereby confirms and agrees that all details and dimensions of the Unit purchased hereunder are approximate only, and that the Purchase Price shall not be subject to any adjustment or claim for compensation whatsoever, whether based upon the ultimate square footage of the Unit, or the actual or useable living space within the confines of the Unit or otherwise. The Purchaser further acknowledges that the ceiling height of the Unit is measured from the upper surface of the concrete floor slab (or subfloor) to the underside surface of the concrete ceiling slab (or joists). However, where ceiling bulkheads are installed within the Unit, and/or where dropped ceilings are required, then the ceiling height of the Unit will be less than that represented, and the Purchaser shall correspondingly be obliged to accept the same without any abatement or claim for compensation whatsoever.
- 36. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
- 37. The headings of this Agreement form no part hereof and are inserted for convenience of reference only.
- 38. Each of the provisions of this Agreement shall be deemed independent and severable and the invalidity or unenforceability in whole or in part of any one or more of such provisions shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Agreement, and in such event all the other provisions of this Agreement shall continue in full force and effect as if such invalid provision had never been included herein. The Purchaser and the Vendor acknowledge and agree that this Agreement and all amendments and addenda thereto shall constitute an agreement made under seal.

39. (a) If any documents required to be executed and delivered by the Purchaser to the Vendor are, in fact, executed by a third party appointed as the attorney for the Purchaser, then the power of attorney appointing such person must be registered in the Land Titles office where the Lands are registered, and a duplicate registered copy thereof (together with a statutory declaration sworn by the Purchaser's solicitor unequivocally confirming, without any qualification whatsoever, that said power of attorney has not been revoked) shall be delivered to the Vendor along with such documents.
- (b) Where the Purchaser is a corporation, or where the Purchaser is buying in trust for another person or corporation for a disclosed or undisclosed beneficiary or principal (including, without limitation, a corporation to be incorporated), the execution of this Agreement by the principal or principals of such corporation, or by the person named as the Purchaser in trust as the case may be, shall be deemed and construed to constitute the personal indemnity of such person or persons so signing with respect to the obligations of the Purchaser herein and shall be fully liable to the Vendor for the Purchaser's obligations under this Agreement and may not plead such agency, trust relationship or any other relationships as a defence to such liability.

Notice

40. (a) Any notice required to be delivered under the provisions of the Tarion Addendum shall be delivered in the manner required by paragraph 14 of the Tarion Addendum.
- (b) Any other notice given pursuant to the terms of this Agreement shall be deemed to have been properly given if it is in writing and is delivered by hand, ordinary prepaid post, facsimile transmission or electronic mail to the attention of the Purchaser or to the Purchaser's solicitor to their respective addresses indicated herein or to the address of the Unit after the Occupancy Date and to the Vendor at 8791 Woodbine Avenue, Suite 100, Markham, Ontario, L3R 0P4, or to the Vendor's Solicitors at the address indicated in this Agreement or such other address as may from time to time be given by notice in accordance with the foregoing. Such notice shall be deemed to have been received on the day it was delivered by hand; by electronic mail or by facsimile transmission and upon the third day following posting, excluding Saturdays, Sundays and statutory holidays. This agreement or any amendment or addendum thereto may, at the Vendor's option, be properly delivered if it is delivered by facsimile transmission or if a copy of same is computer scanned and forwarded by electronic mail to the other party.

Material Change

41. The Purchaser acknowledges and agrees that the Vendor may, from time to time in its sole discretion, due to site conditions or constraints, or for marketing considerations, or for any other legitimate reason, including without limitation any request or requirement of any of the governmental authorities or any request or requirement of the Vendor's architect or other design consultants:
- (a) change the Property's municipal address or numbering of the Unit (in terms of the unit number and/or level number ascribed to any one or more of the units comprising the Unit);
- (b) change, vary or modify the plans and specifications pertaining to the Unit or the Condominium, or any portion thereof (including architectural, structural, engineering, landscaping, grading, mechanical, site servicing and/or other plans and specifications) from the plans and specifications existing at the inception of the project, or existing at the time that the Purchaser has entered into this Agreement, or as same may be illustrated in any sales brochure(s), model(s), in the sales office or otherwise, including without limitation, making any change to the total number of dwelling, parking, locker and/or other ancillary units intended to be created within the Condominium, and/or any change to the total number of levels or floors within the Condominium, as well as any changes or alterations to the design, style, size and/or configuration of any dwelling or other ancillary units within the Condominium;
- (c) change, vary, or modify the number, size and location of any windows, column(s) and/or bulkhead(s) within or adjacent to (or comprising part of) the Unit, from the number, size and/or location of same as displayed or illustrated in any sales brochure(s), model(s) or floor plan(s) previously delivered or shown to the Purchaser, including the insertion or placement of any window(s), column(s) and/or bulkhead(s) in one or more locations within the Unit which have not been shown or illustrated in any sales brochure(s), model(s) or floor plan(s) previously delivered or shown to the Purchaser (regardless of the extent or impact thereof), as well as the removal of any window(s), column(s) and/or bulkhead(s) from any location(s) previously shown or illustrated in any sales brochure(s), model(s) in the sales office or otherwise; and/or
- (d) change the layout of the Unit such that same is a mirror image of the layout shown to the Purchaser (or a mirror image of the layout illustrated in any sales brochure or other marketing material(s) delivered to the Purchaser);

and that 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 changes, deletions, alterations or modifications, nor shall the Purchaser be entitled to any abatement or reduction in the Purchase Price whatsoever as a consequence thereof, nor any notice thereof (unless any such change, deletion, alteration or modification to the said plans and specifications is material in nature (as defined by the Act) and significantly affects the fundamental character, use or value of the Unit and/or the Condominium, in which case the Vendor shall be obliged to notify the Purchaser in writing of such change, deletion, alteration or modification as soon as reasonably possible after the Vendor proposes to implement same, or otherwise becomes aware of same), and where any such change, deletion, alteration or modification to the said plans and specifications is material in nature, then the Purchaser's only recourse and remedy shall be the termination of this Agreement prior to the Title Transfer Date (and specifically within 10 days after the Purchaser is notified or otherwise becomes aware of such material change), and the return of the Purchaser's deposit monies, together with interest accrued thereon at the rate prescribed by the Act.

Cause of Action/Assignment

42. (a) The Purchaser acknowledges and agrees that notwithstanding any rights which he or she might otherwise have at law or in equity arising out of this Agreement, the Purchaser shall not assert any of such rights, nor have any claim or cause of action whatsoever as a result of any matter or thing arising under or in connection with this Agreement (whether based or founded in contract law, tort law or in equity, and whether for innocent misrepresentation, negligent misrepresentation, breach of contract, breach of fiduciary duty, breach of constructive trust or otherwise), against any person, firm, corporation or other legal entity, other than the person, firm, corporation or legal entity specifically named or defined as the Vendor herein, even though the Vendor may be (or may ultimately be found or adjudged to be) a nominee or agent of another person, firm, corporation or other legal entity, or a trustee for and on behalf of another person, firm, corporation or other legal entity, and this acknowledgment and agreement may be pleaded as an estoppel and bar against the Purchaser in any action, suit, application or proceeding brought by or on behalf of the Purchaser to assert any of such rights, claims or causes of action against any such third parties. Furthermore, the Purchaser and the Vendor acknowledge that this Agreement shall be deemed to be a contract under seal.
- (b) At any time prior to the Title Transfer Date, the Vendor shall be permitted to assign this Agreement (and its rights, benefits and interests hereunder) to any person, firm, partnership or corporation registered as a vendor pursuant to the ONHWPA and upon any such assignee assuming all obligations under this Agreement and notifying the Purchaser or the Purchaser's solicitor of such assignment, the Vendor named herein shall be automatically released from all obligations and liabilities to the Purchaser arising from this Agreement, and said assignee shall be deemed for all purposes to be the vendor herein as if it had been an original party to this Agreement, in the place and stead of the Vendor.

Non-Merger

43. The covenants and agreements of each of the parties hereto shall not merge on the Title Transfer Date, but shall remain in full force and effect according to their respective terms, until all outstanding obligations of each of the parties hereto have been duly performed or fulfilled in accordance with the provisions of this Agreement. No further written assurances evidencing or confirming the non-merger of the covenants of either of the parties hereto shall be required or requested by or on behalf of either party hereto.

Notice/Warning Provisions

44. The Purchaser acknowledges that it is anticipated by the Vendor that in connection with the Vendor's application to the appropriate governmental authorities for draft plan of condominium approval certain requirements may be imposed upon the Vendor by various governmental authorities. These requirements (the "Requirements") usually relate to warning provisions to be given to Purchasers in connection with environmental or other concerns (such as warnings relating to noise levels, the proximity of the Condominium to major street, garbage storage and pickup, school transportation, and similar matters). Accordingly, the Purchaser covenants and agrees that (1) on either the Occupancy Date or Title Transfer Date, as determined by the Vendor, the Purchaser shall execute any and all documents required by the Vendor acknowledging, inter alia, that the Purchaser is aware of the Requirements, and (2) if the Vendor is required to incorporate the Requirements into the final Condominium Documents the Purchaser shall accept the same, without in any way affecting this transaction. Notwithstanding the generality of the foregoing, the Purchaser agrees to be bound by the warnings set forth in Schedule "D" hereto.

Purchaser's Consent to the Collection and Limited Use of Personal Information

45. The Purchaser hereby consents to the Vendor's collection, use and disclosure of the Purchaser's personal information for the purpose of enabling the Vendor to proceed with the Purchaser's purchase of the Unit, completion of this transaction, and for post-closing and after-sales customer care purposes. Such personal information includes the Purchaser's name, home address, e-mail address, telefax/telephone number, age, date of birth, marital and residency status, social insurance number (only with respect to subparagraph (b) below), financial information, desired suite design(s), and colour/finish selections. In particular, but without limiting the foregoing, the Vendor may disclose such personal information to:
- (a) Any relevant governmental authorities or agencies, including without limitation, the Land Titles Office (in which the Condominium is registered), the Ministry of Finance for the Province of Ontario (i.e. with respect to Land Transfer Tax), and the Canada Revenue Agency (i.e. with respect to GST);
- (b) Canada Revenue Agency, to whose attention the T-5 interest income tax information return and/or the NR4 non-resident withholding tax information return is submitted (where applicable), which will contain or refer to the Purchaser's social insurance number or business registration number (as the case may be), as required by Regulation 201(1)(b)(ii) of the ITA, as amended;
- (c) The Condominium for the purposes of facilitating the completion of the Condominium's voting, leasing and/or other relevant records and to the Condominium's property manager for the purposes of facilitating the issuance of notices, the collection of common expenses and/or implementing other condominium management/administration functions;
- (d) any companies or legal entities that are associated with, related to or affiliated with the Vendor, other future condominium declarants that are likewise associated with, related to or affiliated with the Vendor (or with the Vendor's parent/holding company) and are developing one or more other condominium projects or communities that may be of interest to the Purchaser or members of the Purchaser's family, for the limited purposes of marketing, advertising and/or selling various products and/or services to the Purchaser and/or members of the Purchaser's family;
- (e) any financial institution(s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, with respect to the Unit, including without limitation, the Vendor's construction lender(s), the quantity surveyor monitoring the Project and its costs, the Vendor's designated construction lender(s), the Taction Warranty Corporation and/or any warranty bond provider and/or excess condominium deposit insurer, required in connection with the

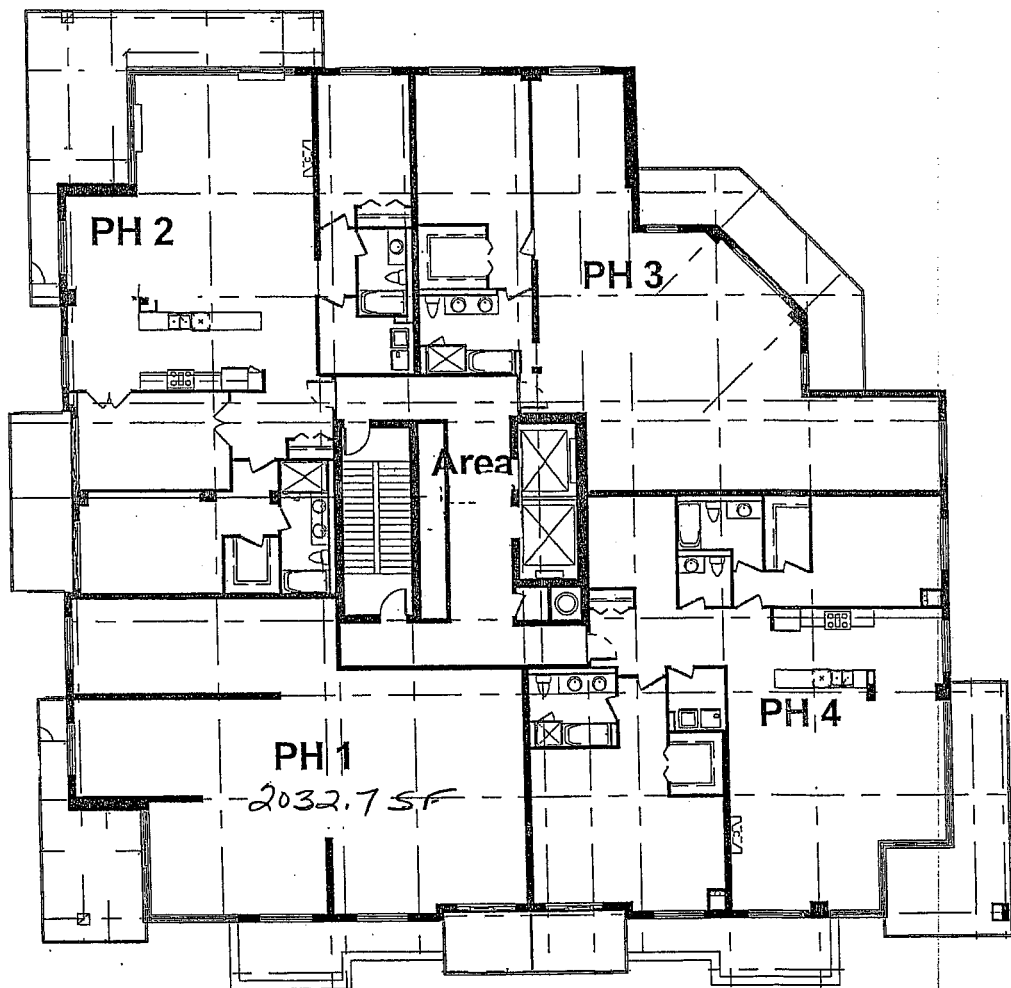
development and/or construction financing of the Condominium and/or the financing of the Purchaser's acquisition of the Property from the Vendor;

- (f) any insurance companies of the Vendor providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof) and/or the common elements of the Condominium, and any title insurance companies providing (or wishing to provide) title insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of this transaction;
- (g) any trades/suppliers or sub-trades/suppliers, who have been retained by or on behalf of the Vendor (or who are otherwise dealing with the Vendor) to facilitate the completion and finishing of the Unit and the installation of any extras or upgrades ordered or requested by the Purchaser;
- (h) one or more providers of cable television, telephone, telecommunication, security alarm systems, hydro-electricity, chilled water/hot water, gas and/or other similar or related services to the Property (or any portion thereof) and/or the Condominium (collectively, the "Utilities"), unless the Purchaser gives the Vendor prior notice in writing not to disclose the Purchaser's personal information to one or more of the Utilities;
- (i) one or more third party data processing companies which handle or process marketing campaigns on behalf of the Vendor or other companies that are associated with, related to or affiliated with the Vendor, and who may send (by e-mail or other means) promotional literature/brochures about new condominiums and/or related services to the Purchaser and/or members of the Purchaser's family, unless the Purchaser gives the Vendor prior notice in writing not to disclose the Purchaser's personal information to said third party data processing companies;
- (j) the Vendor's solicitors, to facilitate the interim occupancy and/or final closing of this transaction, including the closing by electronic means via the Teraview Electronic Registration System, and which may (in turn) involve the disclosure of such personal information to an internet application service provider for distribution of documentation;
- (k) any person, where the Purchaser further consents to such disclosure or disclosures required by law.

Any questions or concerns of the Purchaser with respect to the collection, use or disclosure of his or her personal information may be delivered to the Vendor at the address set out in the Tarion Addendum, Attention: Privacy Officer.

M:\08\080017\Master's Agreement of Purchase and Sale (May 20 09).DOC

SCHEDULE "A" TO THE AGREEMENT OF PURCHASE AND SALE



LEVEL
UNIT

19
01

[Handwritten signatures and initials]

SCHEDULE "B" TO THE AGREEMENT OF PURCHASE AND SALE

FEATURES AND FINISHES – TOWER PENTHOUSE UNITS

The following are included in the Purchase Price:

- Engineered hardwood flooring in living, dining and den areas
- 40oz carpet with foam under pad in bedroom(s)
- Ceramic tile in kitchen, laundry, bathroom(s), and entrance areas
- Bi-fold doors for all closet/storage areas, painted white
- Digital Thermostat(s) for individual climate control of suite
- Smooth finished ceilings
- Lever passage and privacy sets
- Interior walls are primed and then painted with two coats of off-white, latex paint (bathroom(s), and all woodwork and trim painted with durable white semi-gloss paint). Paints have low levels of volatile organic compounds (VOCs).
- 6'8" foot interior doors with lever hardware, complete with contemporary casings
- 8 foot solid wood entry door with security peeper, lever set hardware and suite number on the escutcheon plate.
- Nominal 8" baseboards in living, dining, den, bedroom(s) and bathroom(s) areas.
- Nominal 8" crown molding in living, dining, den and hallway areas
- Balcony and Terrace access via sliding patio door(s)
- Balcony to have one exterior electrical receptacle.
- Thermally broken aluminum window frames with, double pane, sealed glazed units, with designated operable windows.
- Where ceiling bulkheads are installed, the ceiling height will be less than the nominal 10 feet. Where dropped ceilings are required, (in areas such as foyers, closets, kitchens, dining rooms, bathrooms, laundry rooms and hallways), the ceiling height will also be less than the nominal 10 feet.

KITCHENS

- Brand name Energy Star ® refrigerator and dishwasher
- Stainless steel brand name natural gas range, combination microwave/hood vent
- Kitchen cabinetry with one bank of drawers, pantry per suite design. Cabinets complete with contemporary handles.
- Granite kitchen countertop with polished square edge and stainless steel under mounted double sink.

- N.B. Subject to paragraph 4 of the Agreement of Purchase and Sale attached hereto, the Vendor shall have the right to substitute other products and materials for those listed in this Schedule or provided for in the plans and specifications provided that the substituted products and materials are of a quality equal to, or better than, the products and materials so listed or so provided.
1. Marble and wood are subject to natural variations in colour and grain. Ceramic tile and broadloom are subject to pattern, shade and colour variations.
 2. If the Unit is at a stage of construction which will enable the Vendor to permit the Purchaser to make colour and material choices from the Vendor's standard selections, then the Purchaser shall have until the Vendor's date designated by the Vendor (of which the Purchaser shall be given at least seven (7) days prior to notice) to properly complete the Vendor's colour and material selection form. If the Purchaser fails to do so within such time period, the Vendor may irrevocably exercise all of the Purchaser's rights to colour and material selections hereunder and such selections shall be binding upon the Purchaser. No changes whatsoever shall be permitted in colours or materials so selected by the Vendor, except that the Vendor shall have the right to substitute other materials and items for those provided in this Schedule provided that such materials and items are of equal quality to or better than the materials and items set out herein. The Purchaser acknowledges that there shall be no reduction in the price or credit for any standard feature listed herein which is omitted at the Purchaser's request.
 3. References to model types or model numbers refer to current manufacturer's models. If these types or models shall change, the Vendor shall provide an equivalent model.
 4. All dimensions, if any, are approximate.
 5. All specifications and materials are subject to change without notice.
 6. Pursuant to this Agreement or this Schedule or pursuant to a supplementary agreement or purchase order the Purchaser may have requested the Vendor to construct an additional feature within the Unit which is in the nature of an optional extra (such as, by way of example only, a fireplace); if, as a result of building, construction or site conditions within the Unit or the Building, the Vendor is not able to construct such extra, then the Vendor may, by written notice to the Purchaser, terminate the Vendor's obligation to construct the extra. In such event, the Vendor shall refund to the Purchaser the monies, if any, paid by the Purchaser to the Vendor in respect of such extra, without interest and in all other respects this Agreement shall continue in full force and effect.
 7. Floor and specific features will depend on the Vendor's package as selected

- Single lever kitchen faucet, complete with pull out spray.
- 4" granite backsplash

BATHROOMS

- White bathroom fixtures throughout.
- Cultured marble vanity with integrated basin and single lever faucet for the bathroom(s)
- Vanity mirror in clear finish
- 5' acrylic soaker tub with single lever faucet.
- Ceramic tiles in tub area to ceiling height
- Temperature controlled shower faucet.
- Low-flow shower head(s).
- Ceramic tile flooring
- Low consumption toilet(s).

LAUNDRY

- Brand name stackable washer & dryer combination unit
- Heavy-duty wiring and receptacle for dryer.
- Dryer vented to exterior.

SAFETY and SECURITY

- Heat detector(s) connected to fire annunciation panel.
- Hard wired smoke alarm(s).

ELECTRICAL SERVICE and FIXTURES

- Individual electrical power service, separately metered
- Decora series receptacles and switches throughout.
- Light fixtures in foyer, hallway(s), kitchen, breakfast area, and den.
- Capped ceiling light outlet in dining room.

COMMUNICATIONS

- Pre-wired cable outlet in living room, bedroom(s), den and kitchen
- Pre-wired telephone outlet in living room, bedroom(s), den and kitchen.

CUSTOM DESIGN

- 10 hours of design time with interior designer;
- 2 hours of design time with architect.

SCHEDULE "C" TO AGREEMENT OF PURCHASE AND SALE

TERMS OF OCCUPANCY LICENCE

- C.1 The transfer of title to the Unit shall take place on the Title Transfer Date upon which date, unless otherwise expressly provided for hereunder, the term of this Occupancy Licence shall be terminated.
- C.2 The Purchaser shall pay or have paid to the Vendor, on or before the Occupancy Date, by certified cheque drawn on a Canadian chartered bank the amount set forth in paragraph 1(b) of this Agreement without adjustment. Upon payment of such amount on the Occupancy Date, the Vendor grants to the Purchaser a licence to occupy the Unit from the Occupancy Date.
- The Purchaser shall pay to the Vendor the Occupancy Fee calculated as follows:
- (a) the amount of interest payable in respect of the unpaid balance of the Purchase Price at the prescribed rate;
 - (b) an amount reasonably estimated by the Vendor on a monthly basis for municipal realty taxes attributable by the Vendor to the Unit; and
 - (c) the projected monthly common expense contribution for the Unit;
- as an occupancy charge on the first day of each month in advance during Interim Occupancy, no part of which shall be credited as payments on account of the Purchase Price, but which payments shall be a charge for occupancy only. If the Occupancy Date is not the first day of the month, the Purchaser shall pay on the Occupancy Date a pro rata amount for the balance of the month by certified funds. The Purchaser shall deliver to the Vendor on or before the Occupancy Date a series of post-dated cheques as required by the Vendor for payment of the estimated monthly Occupancy Fee. The Occupancy Fee may be recalculated by the Vendor, from time to time based on revised estimates of the items which may be lawfully taken into account in the calculation thereof and the Purchaser shall pay to the Vendor such revised Occupancy Fee following notice from the Vendor. With respect to taxes, the Purchaser agrees that the amount estimated by the Vendor on account of municipal realty taxes attributed to the Unit shall be subject to recalculation based upon the real property tax assessment or reassessment of the Units and/or Condominium, issued by the municipality after the Title Transfer Date and the municipal tax mill rate in effect as at the date such assessment or reassessment is issued. The Occupancy Fee shall thereupon be recalculated by the Vendor and any amount owing by one party to the other shall be paid upon demand.
- C.3 The Purchaser shall be allowed to remain in occupancy of the Unit during Interim Occupancy provided the terms of this Occupancy Licence and the Agreement have been observed and performed by the Purchaser. In the event the Purchaser breaches the terms of occupancy the Vendor in its sole discretion and without limitation of any other rights or remedies provided for in this Agreement or at law may terminate this Agreement and revoke the Occupancy Licence whereupon the Purchaser shall be deemed a trespasser and shall give up vacant possession forthwith. The Vendor may take whatever steps it deems necessary to obtain vacant possession and the Purchaser shall reimburse the Vendor for all costs it may incur.
- C.4 At or prior to the time that the Purchaser takes possession of the Unit, the Purchaser shall execute and deliver to the Vendor any documents, directions, acknowledgments, assumption agreements or any and all other documents required by the Vendor pursuant to this Agreement, in the same manner as if the closing of the transaction was taking place at that time.
- C.5 The Purchaser shall pay the monthly Occupancy Fee during Interim Occupancy and the Vendor shall destroy all unused post-dated Occupancy Fee cheques on or shortly after the Title Transfer Date.
- C.6 The Purchaser agrees to maintain the Unit in a clean and sanitary condition and not to make any alterations, improvements or additions thereto without the prior written approval of the Vendor which may be unreasonably withheld. The Purchaser shall be responsible for all utility, telephone expenses, cable television service, or other charges and expenses billed directly to the occupant of the Unit by the supplier of such services and not the responsibility of the Corporation under the Condominium Documents.
- C.7 The Purchaser's occupancy of the Unit shall be governed by the provisions of the Condominium Documents and the provisions of this Agreement. The Unit may only be occupied and used in accordance with the Condominium Documents and for no other purpose.
- C.8 The Vendor covenants to proceed with all due diligence and dispatch to register the Creating Documents. If the Vendor for any reason whatsoever is unable to register the Creating Documents and therefore is unable to deliver a registrable Transfer/Deed to the Purchaser within twenty-four (24) months after the Occupancy Date, the Purchaser or Vendor shall have the right after such twenty-four (24) month period to give sixty (60) days written notice to the other, of an intention to terminate the Occupancy Licence and this Agreement. If the Vendor and Purchaser consent to termination, the Purchaser shall give up vacant possession and pay the Occupancy Fee to such date, after which this Agreement and Occupancy Licence shall be terminated and all moneys paid to the Vendor on account of the Purchase Price shall be returned to the Purchaser together with interest required by the Act, subject however, to any repair and redecoration expenses of the Vendor necessary to restore the Unit to its original state of occupancy, reasonable wear and tear excepted. The Purchaser and Vendor each agree to provide a release of this Agreement in the Vendor's standard form. If the Vendor and Purchaser do not consent to termination, the provisions of subsection 79(3) of the Act may be invoked by the Vendor.
- C.9 The Vendor and the Purchaser covenant and agree, notwithstanding the taking of possession, that all terms hereunder continue to be binding upon them and that the Vendor may enforce the provisions of the Occupancy Licence separate and apart from the purchase and sale provisions of this Agreement.
- C.10 The Purchaser acknowledges that the Vendor holds a fire insurance policy on the Condominium including all aspects of a standard unit only and not on any improvements or betterments made by or on behalf of the Purchaser. It is the responsibility of the Purchaser, after the Occupancy Date to insure the improvements or betterments to the Unit and to replace and/or repair same if they are removed, injured or destroyed. The Vendor is not liable for the Purchaser's loss occasioned by fire, theft or other casualty, unless caused by the Vendor's willful conduct.

- C.11 The Purchaser agrees to indemnify the Vendor for all losses, costs and expenses incurred as a result of the Purchaser's neglect, damage or use of the Unit or the Condominium, or by reason of injury to any person or property in or upon the Unit or the Condominium resulting from the negligence of the Purchaser, members of his immediate family, servants, agents, invitees, tenants, contractors and licensees. The Purchaser agrees that should the Vendor elect to repair or redecorate all or any part of the Unit or the Condominium as a result of the Purchaser's neglect, damage or use of the Unit or Condominium, he will immediately reimburse the Vendor for the cost of doing same, the determination of need for such repairs or redecoration shall be at the discretion of the Vendor, and such costs may be added to the Purchase Price.
- C.12 In accordance with subsections 80(6)(d) and (e) of the Act, subject to strict compliance by the Purchaser with the requirements of occupancy set forth in this Agreement, the Purchaser shall not have the right to assign, sublet or in any other manner dispose of the Occupancy Licence during Interim Occupancy without the prior written consent of the Vendor which consent may be arbitrarily withheld. The Purchaser acknowledges that an administrative fee will be payable to the Vendor each time the Purchaser wishes to assign, sublet or dispose of the Occupancy Licence during Interim Occupancy.
- C.13 The provisions set forth in this Agreement, unless otherwise expressly modified by the terms of the Occupancy Licence, shall be deemed to form an integral part of the Occupancy Licence. In the event the Vendor elects to terminate the Occupancy Licence pursuant to this Agreement following substantial damage to the Unit and/or the Condominium, the Occupancy Licence shall terminate forthwith upon notice from the Vendor to the Purchaser. If the Unit and/or the Condominium can be repaired within a reasonable time following damages as determined by the Vendor (but not, in any event, to exceed one hundred and eighty (180) days) and the Unit is, during such period of repairs uninhabitable, the Vendor shall proceed to carry out the necessary repairs to the Unit and/or the Condominium with all due dispatch and the Occupancy Fee shall abate during the period when the Unit remains uninhabitable; otherwise, the Purchaser shall vacate the Unit and deliver up vacant possession to the Vendor and all moneys, to the extent provided for in paragraph 20 hereof (excluding the Occupancy Fee paid to the Vendor) shall be returned to the Purchaser. It is understood and agreed that the proceeds of all insurance policies held by the Vendor are for the benefit of the Vendor alone.

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SCHEDULE "D" TO AGREEMENT OF PURCHASE AND SALE

WARNING CLAUSES

1. The Purchaser acknowledges that it is anticipated by the Declarant that in connection with the Declarant's application to the appropriate governmental authorities for draft plan of condominium approval certain requirements may be imposed upon the Declarant by various governmental authorities. These requirements (the "Requirements") usually relate to warning provisions to be given to Purchasers in connection with environmental or other concerns (such as warnings relating to noise levels, the proximity of the Condominium to major street, hydro transmission lines, garbage storage and pickup, school transportation, and similar matters). Accordingly, the Purchaser covenants and agrees that (1) on either the Closing Date or Unit Transfer Date, (as set out in the Agreement of Purchase and Sale executed by the Purchaser) as determined by the Declarant, the Purchaser shall execute any and all documents required by the Declarant acknowledging, inter alia, that the Purchaser is aware of the Requirements, and (2) if the Declarant is required to incorporate the Requirements into the final Condominium Documents the Purchaser shall accept the same, without in any way affecting this transaction.
2. The Purchaser is hereby advised that the Declarant'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 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 Closing Date, all at the Purchaser's sole cost and expense.
3. The Purchaser acknowledges and agrees that the Declarant (and any of its authorized agents, representatives and/or contractors), as well as one or more authorized representatives of the Condominium, shall be permitted to enter the Unit after Closing, from time to time, in order to enable the Declarant to correct outstanding deficiencies or incomplete work for which the Declarant is responsible, and to enable the Condominium to inspect the condition or state of repair of the Unit and undertake or complete any requisite repairs thereto (which the owner of the Unit has failed to do) in accordance with the Act.
4. The Purchaser acknowledges being advised of the following notices:
 - (i) Prospective purchasers are advised that pupils may be accommodated in temporary facilities and/or be directed to schools outside of the area;
 - (ii) Purchasers are advised that sufficient accommodation may not be available for students residing in this area and that you are notified that students may be accommodated in temporary facilities and/or bussed to existing facilities outside the area. The local District School Board may designate pick up points for the children to meet the bus on roads presently in existence or other pick up areas convenient to the Board.
 - (iii) This dwelling unit has been fitted with a forced air heating system and air conditioning. Air conditioning will allow window and exterior doors to remain closed, thereby ensuring that indoor sound levels are within the Municipality's and the Ministry of the Environment's noise criteria.
5. Without limiting the generality of the preceding subparagraph, the Purchaser is hereby advised that:
 - (i) noise levels caused by the Condominium's emergency generator, bank of elevators, garbage chutes, mechanical equipment, chiller/cooling tower, move-in bays and ancillary moving facilities and areas, and by the Condominium's indoor recreation facilities, may occasionally cause noise and inconvenience to the residential occupants; and
 - (ii) as and when other residential units in the Condominium are being completed and/or moved into, excessive levels of noise, vibration, dust and/or debris are possible, and same may accordingly temporarily cause noise and inconvenience to the residential occupants.
6. The Purchaser specifically acknowledges and agrees that the Condominium will be developed in accordance with any requirements that may be imposed from time to time by any Governmental Authorities and the proximity of the Lands to Park Street, Allen Street and King Street, and proposed Grand River Transit light rail operations, may result in noise, vibration, electromagnetic interference, and stray current transmissions ("Interferences") to the Property and despite the inclusion of control features within the Condominium. Interferences from transit operations may continue to be of concern, occasionally interfering with some activities of the dwelling occupants in the Condominium. Purchasers are advised that Regional Municipality of Waterloo proposes to construct light rail operations along King Street and/or Caroline Street in the future.
7. It is further acknowledged that one or more of the Development Agreements may require the Declarant to provide the Purchaser with certain notices, including without limitation, notices regarding such matters as land use, the maintenance of retaining walls, landscaping features and/or fencing, noise abatement features, garbage storage and pick-up, school transportation, and noise/vibration levels from adjacent roadways and/or nearby railway lines or airports. The Purchaser agrees to be bound by the contents of any such notice(s), whether given to the Purchaser at the time that this Agreement has been entered into, or at any time thereafter up to the Title Transfer Date, and the Purchaser further covenants and agrees to execute, forthwith upon the Declarant's request, an express acknowledgment confirming the Purchaser's receipt of such notice(s) in accordance with (and in full compliance of) such provisions of the Development Agreement(s), if and when required to do so by the Declarant.
8. The Purchaser acknowledges that the Declarant reserves the right to increase or decrease the final number of residential, parking, locker, and/or other ancillary units intended to be created within the Condominium, as well as the right to alter the design, style, size and/or configuration of the residential units ultimately comprised within the Condominium which have not yet been sold by the Declarant to any unit purchaser(s), all in the Declarant's sole discretion, and the Purchaser expressly acknowledges and agrees to the foregoing, provided that the final budget for the first year following registration of the Condominium is prepared in such a manner so that any such variance in the residential/parking/locker and/or other ancillary unit count will not affect, in any material or substantial way, the percentages of common expenses and common interests allocated and attributable to the residential, parking and/or

locker units sold by the Declarant to the Purchaser. Without limiting the generality of the foregoing, the Purchaser further acknowledges and agrees that one or more residential units situate adjacent to one another may be combined or amalgamated prior to the registration of the Condominium, in which case the common expenses and common interests attributable to such proposed former units will be incorporated into one figure or percentage in respect of the final combined unit, and the overall residential unit count of the Condominium will be varied and adjusted accordingly. None of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Declarant to the Purchaser in connection with this transaction.

9. The Purchaser hereby acknowledges and agrees that the Declarant cannot guarantee (and will not be responsible for) the arrangement of a suitable move-in time for purposes of accommodating the Purchaser's occupancy of the residential unit on the Closing Date, (or any acceleration or extension thereof as hereinbefore provided); and that the Purchaser shall be solely responsible for directly contacting the Declarant's customer service office in order to make suitable booking arrangements with respect to the Condominium's service elevator, if applicable (with such booking being allotted on a "first come, first served" basis), and under no circumstances shall the Purchaser be entitled to any claim, refund, credit, reduction/abatement or set-off whatsoever against any portion of the Purchase Price, or against any portion of the common expenses or other adjustments with respect thereto (nor with respect to any portion of the monthly occupancy fees, so paid or payable, if applicable) as a result of the service elevator not being available to accommodate the Purchaser moving into the Condominium on, (or within any period of time after) or the Closing Date, (or any acceleration or extension thereof, as aforesaid).
10. The Declarant/Vendor shall have the right to substitute any level in the Condominium with an alternative floor plate containing a modified design of units and/or number of units on the level. In the event that such modification becomes necessary, there shall be a reallocation of each owner's proportionate percentage and the Budget shall be modified accordingly. The Purchaser acknowledges that none of the foregoing changes or revisions (if implemented) shall in any way be considered or construed as a material change to the disclosure statement prepared and delivered by the Declarant to the Purchaser in connection with this transaction.
11. Purchasers of Residential Units located on Levels 1, 4 and 5 of the Condominium acknowledge being advised that it is the Declarant's current intention to incorporate the Condominium's amenity space and Parking Facility within or adjacent to this level, and accordingly, Purchasers are advised that typical noise associated with the use of the amenity space and Parking Facility may occasionally interfere with some activities within the Unit. Purchasers acknowledge that they have reviewed the draft condominium plan provided to them within the Disclosure Book and, in consideration of both their location on a particular level and their location in relation to the amenities and parking facility are satisfied with respect to their proximity to same.
12. Purchasers of Residential Units located on Level 1 of the Condominium acknowledge being advised that it is the Declarant's current intention to incorporate the Condominium's parking facility and amenity space, and to locate certain mechanical facilities, loading area and refuse holding room within areas adjacent to said Units, and accordingly, Purchasers are advised that typical noise associated with the use of foregoing may occasionally interfere with some activities within the Unit. Purchasers acknowledge that they have reviewed the draft condominium plan provided to them within the Disclosure Book and, in consideration of both their location on a particular level and their location adjacent to the parking facility, amenities, mechanical facilities, loading area and refuse holding room, are satisfied with respect to their proximity to same.
13. Purchasers of Residential Units 1 to 9 on Level 1 are advised that they may be required to bring their refuse from their respective units to the refuse holding room in Level 1 of the Condominium.
14. Purchasers are advised that the Condominium is located in proximity to the Trans-Canada Trail.
15. Purchasers are notified that the Property is located in proximity to businesses and restaurants, including the Brick Brewery, which may produce odours that may be noticed by occupants of the Property from time to time.
16. Purchasers are advised that the Declarant's marketing material and site drawings and renderings ("Marketing Material") which they may have reviewed prior to the execution of this Agreement remains conceptual and that final building plans are subject to the final review and approval of any applicable governmental authority and the Declarant's design consultants and engineers, and accordingly such Marketing Material does not form part of this Agreement or the Vendor's obligations hereunder.

SCHEDULE "E" TO AGREEMENT OF PURCHASE AND SALE

THE UNDERSIGNED being the Purchaser of the Unit hereby acknowledges having received from the Vendor with respect to the purchase of the Unit the following document on the date noted below:

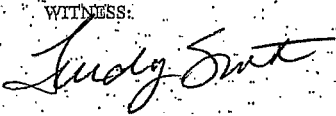
1. A Disclosure Statement dated April 27th, 2009, and accompanying documents in accordance with Section 72 of the Act.
2. A copy of the Agreement of Purchase and Sale (to which this acknowledgment is attached as a Schedule) executed by the Vendor and the Purchaser.

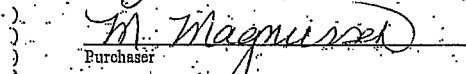
The Purchaser hereby acknowledges that the Condominium Documents required by the Act have not been registered by the Vendor, and agrees that the Vendor may, from time to time, make any modification to the Condominium Documents in accordance with its own requirements and the requirements of any mortgagee, governmental authority, examiner of Legal Surveys, the Land Registry Office or any other competent authority having jurisdiction to permit registration thereof.

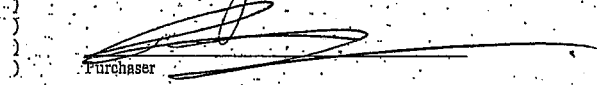
The Purchaser further acknowledges and agrees that in the event there is a material change to the Disclosure Statement as defined in subsection 74(2) of the Act, the Purchaser's only remedy shall be as set forth in subsection 74(6) of the Act, notwithstanding any rule of law or equity to the contrary.

The Purchaser further acknowledges having been advised that the Purchaser shall be entitled to rescind or terminate the Agreement to which this Schedule is attached and obtain a refund of all deposit monies paid thereunder (together with all interest accrued thereon at the rate prescribed by the Act, if applicable), provided written notice of the Purchaser's desire to so rescind or terminate the Agreement is delivered to the Vendor or the Vendor's Solicitors within 10 days after the date set out below.

DATED at Waterloo this 8 day of June, 2009.

WITNESS:



Purchaser


Purchaser

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Property 144 Park - Uptown Waterloo
Waterloo, Ontario

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.

NOTE TO HOME BUYERS: Please visit Tarion's website: www.tarion.com for important information about all 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 condominium unit.

VENDOR 144 Park Ltd.
Full Name(s)
PURCHASER: RICHARD MAGNUSSEN AND MARILY MAGNUSSEN
Full Name(s)

1. Critical Dates

The First Tentative Occupancy Date, which is the date that the Vendor anticipates the condominium home will be completed and ready to move in, is: the 30 day of April, 20 12.

The Vendor can delay Occupancy on one or more occasions by setting a subsequent Tentative Occupancy Date, in accordance with section 3 of the Addendum by giving proper written notice as set out in section 3.

By no later than 30 days after completion of the roof slab or of the roof trusses and sheathing, as the case may be, with 90 days prior written notice, the Vendor shall set either (i) a Final Tentative Occupancy Date; or (ii) a 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 3 below.

If the Vendor cannot provide Occupancy by the Firm Occupancy Date, then the Purchaser is entitled to delayed occupancy compensation (see section 9 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 31 day of October, 20 13.

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 3 of the Addendum and no later than the Outside Occupancy Date.

Notice of a delay beyond the First Tentative Occupancy Date must be given no later than: the 31 day of January, 20 12 (i.e., 90 days before the First Tentative Occupancy Date), or else the First Tentative Occupancy Date automatically becomes the Firm Occupancy Date.

3. Purchaser's Termination Period

If the condominium home is not complete by the Outside Occupancy Date, and the Vendor and the Purchaser have not otherwise agreed, then the Purchaser can terminate the transaction during a period of 30 days thereafter (the "Purchaser's Termination Period"), which period could end as late as

the 30 day of November, 20 13.

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 9, 11 and 12 of the Addendum).

Note: Anytime 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 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 7 of the Addendum).

Acknowledged this 8 day of JUNE, 2009
VENDOR: [Signature]
144 PARK LTD
PURCHASER: [Signature]

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. It 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 "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.**

The Vendor shall complete all blanks set out below.

VENDOR			
144 Park Ltd.			
<small>Full Name(s)</small>			
3927B	8791 Woodbine Avenue, Suite 100		
<small>Tarion Registration Number</small>	<small>Address</small>		
905-944-0907	Markham	Ontario	L3R 0P4
<small>Phone</small>	<small>City</small>	<small>Province</small>	<small>Postal Code</small>
905-944-0916	jbolton@madycorp.com		
<small>Fax</small>	<small>Email</small>		

PURCHASER			
RICHARD MAGNUSSEN AND MARILYN MAGNUSSEN			
<small>Full Name(s)</small>			
2 DEER RIDGE CRES.			
<small>Address</small>			
	KITCHENER	ONT	N2P2L3
<small>Phone</small>	<small>City</small>	<small>Province</small>	<small>Postal Code</small>
	rmagnussen@magnussen.com		
<small>Fax</small>	<small>Email</small>		

PROPERTY DESCRIPTION			
21 Allen Street West (current) - 144 Park Street (proposed)			
<small>Municipal Address</small>			
Waterloo		Ontario	N2L 1C7
<small>City</small>		<small>Province</small>	<small>Postal Code</small>
<small>Lots 1-8, inclusive, on Plan 186, save and except Parts 1 and 2 on 58R-10956; Waterloo being all of PIN No. 22417-0127 (LT)</small>			
<small>Short Legal Description</small>			

INFORMATION REGARDING THE PROPERTY	
The Vendor confirms that:	
(a) The Vendor has obtained Formal Zoning Approval for the Building.	<input type="radio"/> Yes <input checked="" type="radio"/> 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: <input type="radio"/> has occurred; or <input checked="" type="radio"/> is expected to occur by the 30th day of April, 2010.	
The Vendor shall give written notice to the Purchaser within 10 days after the actual date of Commencement of Construction.	

1. 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.
- "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 6, on which the Vendor agrees to provide Occupancy, in the event the Vendor cannot provide Occupancy on the Firm Occupancy Date.
- "Early Termination Conditions" means the types of conditions listed in Schedule A.
- "Firm Occupancy Date" means the firm date on which the Vendor agrees to provide Occupancy as set in accordance with this Addendum.
- "First Tentative Occupancy Date" means the date on which the Vendor, at the time of signing the Purchase Agreement, anticipates that the condominium home will be complete and ready for Occupancy, as set out in the Statement of Critical Dates.
- "Final Tentative Occupancy Date" means the last Tentative Occupancy Date that may be set, in accordance with paragraph 3(d).
- "Formal Zoning Approval" occurs when the zoning by-law required in order to construct 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 a proposed or registered condominium home in accordance with the Purchase Agreement.
- "Outside Occupancy Date" means the latest date that the Vendor agrees, at the time of signing the Purchase Agreement, to provide Occupancy to the Purchaser, as set out in the Statement of Critical Dates.
- "Property" or "condominium home" means the condominium dwelling unit being acquired by the Purchaser from the Vendor, and its appurtenant interest in the 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 11(b).
- "Statement of Critical Dates" means the Statement of Critical Dates attached to or accompanying this Addendum (in form to be determined by the Tarion Registrar from time to time). The Statement of Critical Dates must be signed by both the Vendor and Purchaser.
- "Tentative Occupancy Date" has the meaning given to it in paragraph 3(c).
- "The 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 7(b), and the date on which the Unavoidable Delay concludes.

2. 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 2(h), (i) and (j) 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 2(h) or (i) is deemed null and void and is not enforceable by the Vendor, but does not affect the validity of the balance of the Purchase Agreement.
- (c) The Vendor confirms that:

- (i) This Purchase Agreement is subject to Early Termination Conditions that, if not satisfied (or waived, if applicable), will result in the automatic termination of the Purchase Agreement. Yes No
- (ii) If yes, 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:

Condition #1 (if applicable)
Description of the Early Termination Condition: see appendix

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

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

Condition #2 (if applicable)
Description of the Early Termination Condition: see appendix

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

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

The date for satisfaction of any Early Termination Condition cannot be later than 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 signing of the Purchase Agreement.

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

- (d) There are no Early Termination Conditions applicable to this Purchase Agreement other than those identified in subparagraph 2(c)(ii) and any appendix listing additional Early Termination Conditions.
- (e) The Vendor agrees to take all commercially reasonable steps within its power to satisfy the Early Termination Conditions listed in subparagraph 2(c)(ii).
- (f) For conditions under paragraph 1(h) of Schedule A the following apply:
 - (i) conditions in paragraph 1(a) of Schedule A may not be waived by either party

2. Early Termination Conditions (continued)

- (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.
- (g) 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.
- (h) The Purchase Agreement may be conditional until closing (transfer to the Purchaser of the title to the condominium home) upon compliance with the subdivision control provisions (section 50) of the *Planning Act* (Ontario) by virtue of registration of the Building under the *Condominium Act* (Ontario), which compliance shall be obtained by the Vendor at its sole expense, on or before closing.
- (i) 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.
- (j) The Purchase Agreement may include any condition that is for the sole benefit of the Purchaser and that is agreed to by the Vendor (i.e., 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.

3. 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 condominium 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 no later than 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 completion of the roof slab or of the roof trusses and sheathing of the Building, as the case may be, 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 no later than 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.
- (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 no later than 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 revised Critical Date, as applicable, and state that the setting of such date may change other future Critical Dates, as applicable, in accordance with the terms of the Addendum.

4. Changing the Firm Occupancy Date - Three Ways

- (a) The Firm Occupancy Date, once set or deemed to be set in accordance with section 3, can be changed only:
 - (i) by the mutual written agreement of the Vendor and Purchaser in accordance with section 5;
 - (ii) by the Vendor setting a Delayed Occupancy Date in accordance with section 6; or
 - (iii) as the result of an Unavoidable Delay of which proper written notice is given in accordance with section 7.
- (b) If a new Firm Occupancy Date is set in accordance with section 5 or 7, then the new date is the "Firm Occupancy Date" for all purposes in this Addendum.

5. Changing Critical Dates - By Mutual Agreement

- (a) This Addendum sets out a structure for setting, extending and/or accelerating Occupancy dates, which cannot be altered contractually except as set out in this section 5 and in paragraph 7(c). For greater certainty, this Addendum does not restrict any extensions of the closing date (i.e., title transfer date) where Occupancy of the condominium 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 a Firm Occupancy Date or a Delayed Occupancy Date in each case to a new specified calendar date. The amendment must comply with the requirements of section 10.
- (c) The Vendor and Purchaser may at any time after signing the Purchase Agreement mutually agree in writing to accelerate the First Tentative Occupancy Date and correspondingly reset all the Critical Dates provided that:
 - (i) the mutual amendment is signed at least 180 days prior to the First Tentative Occupancy Date;
 - (ii) all the Critical Dates including the Outside Occupancy Date are moved forward by the same number of days (subject to adjustment so that Critical Dates fall on Business Days);
 - (iii) a new Statement of Critical Dates is signed by both parties at the time the amendment is signed and a copy is provided to the Purchaser; and
 - (iv) the Purchaser is given a three (3) Business Day period in which to review the amendment after signing and if not satisfied with the amendment may terminate the amendment (but not the balance of the Purchase Agreement), upon written notice to the Vendor within such 3-day period.Any such amendment must be by mutual agreement and, for greater certainty, neither party has any obligation to enter into such an amendment.
- (d) 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.
- (e) 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.

6. 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 5 and 7 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 9.

6. Changing the Firm Occupancy Date - By Setting a Delayed Occupancy Date (continued)

- (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 no later than 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 9(c).
- (d) If a Delayed Occupancy Date is set and 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 7 or is mutually agreed upon under section 5, in which case the requirements of those sections must be met. Paragraphs 6(b) and 6(c) above apply with respect to the setting of the new Delayed Occupancy Date.
- (e) Nothing in this section affects the right of the Purchaser or Vendor to terminate the Purchase Agreement on the bases set out in section 11.

7. 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 10 days thereafter, and the next Critical Date.
- (c) As soon as reasonably possible, and no later than 10 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 7(c), the notice is ineffective; the existing Critical Dates are unchanged, and any delayed occupancy compensation payable under section 9 is payable from the existing Firm Occupancy Date.
- (e) Any notice setting new Critical Dates given by the Vendor under this section must set out the revised next Critical Date and state that the setting of such date may change other future Critical Dates, as applicable, in accordance with the terms of the Addendum.

8. Building Code - Conditions of Occupancy

- (a) On or before the date of Occupancy, the Vendor shall deliver to the Purchaser:
 - (i) where a registered code agency has been appointed for the building or part of the building under the *Building Code Act* (Ontario), a final certificate with respect to the condominium home that contains the prescribed information as required by s. 11(3) of the *Building Code Act*; or
 - (ii) where a registered code agency has not been so appointed, either:
 - (A) an Occupancy Permit (as defined in paragraph (d)) for the condominium home; or
 - (B) a signed written confirmation by the Vendor that: (i) provisional or temporary occupancy of the condominium home has been authorized under Article 1.3.3.1 of Division C of the *Building Code*; or (ii) the conditions for residential occupancy of the condominium home as set out in s. 11 of the *Building Code Act* or Article 1.3.3.2 of Division C of the *Building Code*, as the case may be (the "Conditions of Occupancy") have been fulfilled.
- (b) Notwithstanding the requirements of paragraph (a), to the extent that the Purchaser and the Vendor agree that the Purchaser shall be responsible for certain Conditions of Occupancy (the "Purchaser Obligations"):
 - (i) the Purchaser may not refuse to take Occupancy on the basis that the Purchaser Obligations have not been completed;
 - (ii) the Vendor shall deliver to the Purchaser, upon fulfilling the Conditions of Occupancy (other than the Purchaser Obligations), a signed written confirmation that the Vendor has fulfilled such Conditions of Occupancy; and
 - (iii) if the Purchaser and Vendor have agreed that the Conditions of Occupancy (other than the Purchaser 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 date of Occupancy.
- (c) If the Vendor cannot satisfy the requirements of paragraph (a) or subparagraph (b)(iii), then 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)(iii), 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 6, and delayed occupancy compensation shall be payable in accordance with section 9. 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)(iii) is because the Purchaser has failed to satisfy the Purchaser Obligations.
- (d) For the purposes of this section, an "Occupancy Permit" means any written 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 the fact that authority to occupy the condominium home has been granted.

9. 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 5 or 7), then the Vendor shall compensate the Purchaser for all costs incurred by the Purchaser as a result of the delay up to a total amount of \$7,500, which amount includes payment to the Purchaser of \$150 a day for living expenses for each day of delay until the date of Occupancy or the date of termination of the Purchase Agreement, as applicable under paragraph (b).
- (b) Delayed occupancy compensation is payable only if: (i) Occupancy occurs; or (ii) the Purchase Agreement is terminated or deemed to have been terminated under paragraphs 11(b), (c) or (e) 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 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 6(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 within 180 days after Occupancy 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 9 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 acknowledgment signed by both parties which:
 - (i) includes the Vendor's assessment of the delayed occupancy compensation payable;

9. Delayed Occupancy Compensation (continued)

- (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.
- A true copy of the acknowledgement (showing clearly the municipal address and enrolment number of the condominium home on the first page) shall be provided to Tarion by the Vendor within 30 days after execution of the acknowledgment by the parties.
- (f) If the Vendor and Purchaser cannot agree as contemplated in paragraph 9(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 sales transaction is terminated under paragraphs 11(b), (c) or (e) in which case, the deadline is 180 days after termination for a claim to the Vendor and one (1) year after termination for a claim to Tarion.

10. Changes to Critical Dates

- (a) Whenever the parties by mutual agreement extend or accelerate either the Firm Occupancy Date or the Delayed Occupancy Date this section applies.
- (b) If the change involves acceleration of either the Firm Occupancy Date or the Delayed Occupancy Date, then the amending agreement must set out each of the Critical Dates (as changed or confirmed).
- (c) 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 9 above;
 - (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 (the "Compensation"); and
 - (iii) contain a statement by the Purchaser that the Purchaser waives compensation or accepts the above noted Compensation, 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.
- (d) If the Purchaser for his or her own purposes requests a change of date or dates, then paragraph 10(c) shall not apply.

11. Termination of the Purchase Agreement

- (a) The Vendor and the Purchaser may terminate the Purchase Agreement by mutual written consent, such written consent to be given at the time of the termination.
- (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 by the Vendor under paragraph 6(b), 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 requirements of section 2.
- (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 delay in Occupancy alone.

12. Return of Monies Paid on Termination

- (a) If the Purchase Agreement is terminated (other than as a result of breach of contract by the Purchaser), the Vendor shall return 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 return to the Purchaser. The Purchaser cannot be compelled by the Vendor to execute a release of the Vendor and/or a termination agreement as a prerequisite to obtaining the return of monies payable as a result of termination of the Purchase Agreement under this paragraph.
- (b) The rate of interest payable on the Purchaser's monies shall be calculated in accordance with the *Condominium Act*.
- (c) Notwithstanding paragraphs 12(a) and 12(b), if either party initiates legal proceedings to contest termination of the Purchase Agreement or the return of monies paid by the Purchaser, and obtains a legal determination, such amounts and interest shall be payable as determined in those proceedings.

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.
- (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 paragraph 14(b), 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, the party shall send written notice of the change of address/contact number to the other party.
- (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.

SCHEDULE A
Types of Permitted Early Termination Conditions
(Section 2)

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.

**APPENDIX TO ADDENDUM
TO AGREEMENT OF PURCHASE AND SALE
EARLY TERMINATION CONDITIONS**

The Early Termination Conditions referred to in paragraph 2 (c) (ii) of the Tarion Addendum are as follows:

**CONDITIONS PERMITTED IN PARAGRAPH 1 (b) OF SCHEDULE "A" TO
THE TARION ADDENDUM**

1. **Description of Early Termination Condition:**

This Agreement is conditional upon the Vendor entering into binding Agreements of Purchase and Sale for the sale of 80% of the dwelling units within the Condominium.

The date by which this Condition is to be satisfied is the 15th day of December, 2009.

2. **Description of Early Termination Condition:**

This Agreement is conditional upon the Vendor obtaining financing for the construction of the project on terms satisfactory to it in its discretion.

The date by which this Condition is to be satisfied is the 15th day of December, 2009.

3. **Description of Early Termination Condition:**

This Agreement is conditional upon the Vendor being satisfied, in its sole and absolute discretion, with the credit worthiness of the Purchaser. The Vendor shall have sixty (60) days from the date of acceptance of this Agreement by the Vendor to satisfy itself with respect to such credit worthiness. The Purchaser covenants and agrees to provide all requisite information and materials including proof respecting income and source of funds or evidence of a satisfactory mortgage approval signed by a lending institution or other mortgagee acceptable to the Vendor, confirming that the said lending institution or acceptable mortgagee will be advancing funds to the Purchaser sufficient to pay the balance due on the Title Transfer Date, as the Vendor may require to determine the Purchaser's credit worthiness.

The date by which this Condition is to be satisfied is the 15th day of December, 2009.

**144 Park Ltd.
AMENDMENT TO THE
AGREEMENT OF PURCHASE AND SALE**

BETWEEN: 144 Park Ltd. (the "Vendor") and RICHARD MAGNUSSEN AND MARILYN MAGNUSSEN (the "Purchaser")

UNIT (Legal#) 01, Level 19, Suite 1901.

It is hereby understood and agreed between the Vendor and the Purchaser that the following changes(s) shall be made to the above-mentioned Agreement of Purchase and Sale, and except for such change(s) noted below, all other terms and conditions of the Agreement shall remain as stated therein, and time shall continue to be of the essence.

INSERT

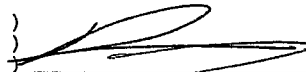

The vendor hereby agrees to provide a credit in the amount of SEVENTY THOUSAND DOLLARS (\$70,000.00) towards upgrades.

DELETE

DATED at Waterloo this 8 day of June, 2009

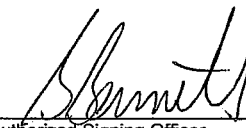
IN WITNESS whereof the parties hereto have affixed their hands and seals.

SIGNED, SEALED AND DELIVERED
In the presence of

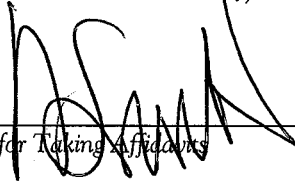
) 
) Purchaser: RICHARD MAGNUSSEN
) 
) Purchaser: MARILYN MAGNUSSEN

DATED at WATERLOO this 8 day of JUNE, 2009

144 Park Ltd.

Per:  c/s
Authorized Signing Officer
I have the authority to bind the Corporation.

This is Exhibit "B" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, appearing to be 'R. Magnussen', written over a horizontal line.

Commissioner for Taking Affidavits



COLOR CHART #1901

DATE: DECEMBER 15, 2014.
PURCHASER: Richard Magnussen
SUITE: 1901

ADDITIONAL ITEMS & EXTRAS		Unit	Number	Purchase
Supply & install the following extras over and above standard:		Cost	of Units	Price
Bathroom Tile Upgrade				
Main Bath Tub Enclosure- Tavella Gesso 3x6				\$ 764.00
Master Ensuite Bathroom Floor- Metal Wood 12x24; Platino				\$ 1,036.00
Master Ensuite Shower Floor- Oriental White & Bardiglio Light Honeycomb				\$ 233.00
Master Ensuite Shower Walls, (9x30 Tiles) & 2 Niches- Deam Neves 9x30				\$ 1,720.00 **
Gas Fireplace				
-> BUILT TO MEASUREMENTS AS SHOWN IN ATTACHED DESIGN PICTURE -> INCLUDES FRAMING BUILT FOR MARBLE TO BE ATTACHED (DOES NOT INCLUDE MARBLE INSTALL) -> WALL AND MANTEL PRIMED AND PAINT READY (DOES NOT INCLUDE PAINTING) -> FIREPLACE VENTING REQUIRES 14 1/2" SQUARE FRAMED OPENING IN EXTERIOR WALL ONTO TERRACE TERMINATION -> BAST TO SUPPLY AND INSTALL ALL VENTING -> GAS SUPPLY MUST BE SUPPLIED TO FIREPLACE LOCATION, WE WILL TIE INTO FIREPLACE. FIREPLACE REQUIERS 65,000 BTU -> 110V ELECTRICAL LINE & CABLE MUST BE SUPPLIED TO LOCATION BY ELECTRICIAN, WE WILL MOUNT INTO WALL ABOVE MANTEL -> 110V ELECTRICAL LINE MUST BE SUPPLIED TO FIREPLACE LOCATION BY ELECTRICIAN, WE WILL CONNECT				
Fireplace Design by Bast				\$ 15,778.00
Fireplace Gasline				N/C
Marble Surround for Fireplace (included in Kitchen Countertop price)				PKG PRICE **
Separate Circuit Outlet (at 6ft or as specified from Designer) from the floor centered above mantel as much as possible for future t.v. installation.				\$ 365.00
Cable Outlet 5ft from the floor centered above mantel as much as possible for future t.v. installation				\$ 365.00
Kitchen Countertop - Marble (To be honed)				
Kitchen Countertop with Island (price includes bathroom vanities and fireplace)				\$ 18,900.00 **
Detail: 2 1/2" Miter edge. Material thickness is 3/4".				
Master Ensuite & Main Bathroom Countertop - Marble (To be honed)				
Master Ensuite and Main Bathroom Countertop (included in Kitchen Countertop price)				PKG PRICE **
Rectangular Undermount Sinks (3-Sinks in total)	\$ 160.00	3		\$ 480.00 **
Detail: 1 1/2" Miter edge.				
Detail: Main Bathroom Vanity. Countertop to have 1 1/4" overhang.				
Interior Doors and Hardware - Study				
4 Doors - 2 on Slider Track, 2 Fixed, 2 Center Panel Doors Will Move on Slider Track Left and Right Over Fixed Panel				PKG PRICE
Maple Doors				PKG PRICE
3 Glass Panel Doors				PKG PRICE
Flush Mount Hardware as Provided in Previous Photo				PKG PRICE
Doors to be Stained to Match Hardwood Flooring				NO CHARGE
Electrical - Priced Per Room - To Be Installed as Indicated on Floor Plan				
Master Bedroom				
Potlights	\$ 178.00	4		\$ 712.00
Single Pole Switch	\$ 156.00	2		\$ 312.00
3-Way Switch	\$ 235.00	1		\$ 235.00



COLOR CHART #1901

DATE: DECEMBER 15, 2014.
 PURCHASER: Richard Magnussen
 SUITE: 1901

ADDITIONAL ITEMS & EXTRAS		Unit	Number	Purchase
Supply & install the following extras over and above standard:		Cost	of Units	Price
Master Ensuite				
Potlights		\$ 178.00	2	\$ 356.00
Single Pole Switch		\$ 156.00	2	\$ 312.00
Duplex Outlet		\$ 156.00	1	\$ 156.00
Wall Sconce		\$ 207.00	3	\$ 621.00
Exhaust Fan (as per quotation)		\$ 1,433.00	1	\$ 1,433.00
Master Bedroom Walk-In Closet				
Capped Outlet on Existing Switch		\$ 207.00	1	\$ 207.00
Potlights		\$ 178.00	4	\$ 712.00
Single Pole Switch		\$ 156.00	1	\$ 156.00
Foyer				
Potlights		\$ 178.00	5	\$ 890.00
3-Way Switch		\$ 235.00	1	\$ 235.00
Study				
Potlights		\$ 178.00	4	\$ 712.00
Great Room				
Potlights		\$ 178.00	7	\$ 1,246.00
Duplex Outlet		\$ 156.00	2	\$ 312.00
Dining Room				
Capped Outlet		\$ 207.00	2	\$ 414.00
Single Pole Switch		\$ 156.00	1	\$ 156.00
Re-Locate Standard Duplex Outlet		\$ 156.00	1	\$ 156.00
Potlights		\$ 178.00	5	\$ 890.00
Kitchen				
Capped Ceiling Outlets All On Same Existing Switch		\$ 207.00	3	\$ 621.00
Wall Sconce		\$ 207.00	3	\$ 621.00
Under Cabinet Valance Lighting		\$ 414.00	1	\$ 414.00
Single Pole Switch		\$ 156.00	2	\$ 312.00
Puck Lights inside Upper Cabinets as Indicated on Sketch		\$ 178.00	3	\$ 534.00
Cooktop Connection				\$ 192.00
Wall Oven Connection				\$ 192.00
Duplex Outlet (GFI) in Kitchen Island				\$ 250.00



COLOR CHART #1901

DATE: DECEMBER 15, 2014.
 PURCHASER: Richard Magnussen
 SUITE: 1901

ADDITIONAL ITEMS & EXTRAS		Unit	Number	Purchase
Supply & install the following extras over and above standard:		Cost	of Units	Price
Hallway				
Potlights		\$ 178.00	3	\$ 534.00
Duplex Outlet		\$ 156.00	1	\$ 156.00
Main Bathroom				
Exhaust Fan		\$ 207.00	1	\$ 207.00
Single Pole Switch		\$ 156.00	2	\$ 312.00
Potlights		\$ 178.00	1	\$ 178.00
Wall Sconce		\$ 207.00	2	\$ 414.00
Fixture Outlet to Accommodate Chandelier		\$ 207.00	1	\$ 207.00
Main Bedroom				
Single Pole Switch		\$ 156.00	1	\$ 156.00
Laundry Room				
Potlights on Existing Switch		\$ 178.00	2	\$ 356.00
Miscellaneous Switches				
Dimmer Switch For Capped Ceiling Outlets		\$ 135.00	9	\$ 1,215.00
Dimmer Switch For Potlights		\$ 135.00	8	\$ 1,080.00 **
Sensor Switch in Pantry and Foyer Closet		\$ 260.00	2	\$ 520.00
Shade Wiring System				
Duplex Receptacle-20 amp		\$ 262.00	9	\$ 2,358.00
Kitchen Sink				
STELLA - ST408				\$ 550.00 **
Laundry Room				
Laundry Room Sink - Includes materials, Labour for Tie-in and Re-testing, Revisions to be Made to Existing Services				\$ 1,160.00
Laundry Room Sink - "BLANCO" Model #401331				\$ 714.00



COLOR CHART #1901

DATE: DECEMBER 15, 2014.
 PURCHASER: Richard Magnussen
 SUITE: 1901

ADDITIONAL ITEMS & EXTRAS		Unit	Number	Purchase
Supply & install the following extras over and above standard:		Cost	of Units	Price
Kitchen, Bathroom, Laundry Faucets and Plumbing				
SEE ATTACHED NELCO MECHANICAL LTD. QUOTATION-March 14th, 2014.				\$ 17,632.00
Kohler Purist Faucet with 8" Pull-out Spout: #K7505-5N (1 for Kitchen)				Incl.
Kohler Purist Faucet with 8" Pull-out Spout: #K7505-5N (1 for Laundry Room)				Incl.
Kohler Pinstripe Pure Widespread Sink Faucet with Lever #K-13132-4A-5N (2 for Master Bathroom)				Incl.
Kohler Pinstripe Pure Widespread Sink Faucet with Lever #K-13132-4A-5N (1 for Main Bathroom)				Incl.
Kohler Pinstripe Toilet Tissue Holders #K-13114-5N				Incl.
Kohler Pinstripe Toilet Tissue Holders #K-13114-5N				Incl.
Bidet-hardware to match "pinstripe" for Main Bathroom				Incl.
Hydorail w/ Rainhead and hand-held shower -Master Ensuite (as per Janell spec)				Incl.
Hydorail w/ hand-held shower -Master Ensuite (as per Janell spec)				Incl.
Hydorail w/ Rainhead and hand -held shower -Main Bathroom				Incl.
Toilet-Kohler Gabrielle Comfort Height Toilet #K-3615				\$ 784.00
Toilet-Kohler Gabrielle Comfort Height Toilet #K-3615				\$ 784.00
Install Waterline for Refrigerator				\$ 250.00
Water Spigots				
4 - Exterior Water Spigots on Terrace(s)				\$ 4,263.00
Crown Moulding, Baseboard & Casing, Interior Doors				
Crown Moulding - In Foyer, Hallway, Great Room, Study, Kitchen and Both Bedrooms				PKG PRICE
Baseboard & Casing - Throughout				\$ 3,915.00
Interior Doors - Upgrade to 8' Doors				\$ 1,500.00 **



COLOR CHART #1901

DATE: DECEMBER 15, 2014.
 PURCHASER: Richard Magnussen
 SUITE: 1901

ADDITIONAL ITEMS & EXTRAS		Unit	Number	Purchase
Supply & install the following extras over and above standard:		Cost	of Units	Price
*KITCHEN, BATHROOM, BUILT-IN CLOSET CABINETRY				
PURCHASER WILL INSTALL OWN CABINETRY - ONE STOP CABINET SHOP INC.				N/A
*KITCHEN APPLIANCES				
PURCHASER WILL SUPPLY & INSTALL OWN APPLIANCES - GOEMANS				N/A
*HARDWOOD FLOORING & OWN CARPET				
PURCHASER WILL SUPPLY & INSTALL OWN HARDWOOD IN FOYER, KITCHEN, GREAT ROOM, DINING ROOM, STUDY, LAUNDRY ROOM, MAIN BATHROOM, MASTER BEDROOM AND MAIN BEDROOM				N/A
*LAUNDRY ROOM COUNTERTOP				
PURCHASER WILL SUPPLY & INSTALL OWN LAUNDRY ROOM COUNTERTOP AT HIS OWN EXPENSE - ONE STOP CABINET SHOP INC.				N/A
CREDITS FROM SUPPLIERS				
Credit from Frenkel Kitchen-Kitchen and Bath				\$ (3,448.00)
Credit for Carpet and Tiles in: Master Bedroom, Main Bedroom, Kitchen, Pantry, Main Bathroom, Laundry Room and Foyer.				\$ (1,982.00)
Credit for Hardwood Flooring in: Great Room, Study		added		\$ (4,622.00)
Credit for Kitchen and Laundry Appliances: Refrigerator, Gas Stove, Dishwasher, Microwave/Hood Fan combo, Washer and Dryer		added		\$ (2,420.00)
Credit for Bathroom Accessories: Standard Towel Bar, Toilet Paper Holder & Soap dishes				\$ (118.00)

SUB-TOTAL	\$ 92,245.00
H.S.T. (5%)	\$ 4,612.25
TOTAL	\$ 96,857.25
VENDOR UPGRADE CREDIT	(\$70,000.00)
SUPPLIER CREDITS	\$ (12,590.00)
FINAL BALANCE	\$ 14,267.25

* All cheques to be made payable to Harris Sheaffer LLP, In Trust.

I hereby agree that I have selected the above noted colours, materials and finishes for my unit at 144 Park in Waterloo from the Vendor's standard and/or upgrade samples. All selections are final. I further agree to pay in full for such selections/upgrades, failing which it is agreed that any or all selections may be cancelled and replaced with finishes selected by the Vendor. A 50% deposit on all upgrade selection is required. I acknowledge and agree that natural materials, including granite, wood, marble, etc., are subject to natural variations in colour and grain. Ceramic tile and broadloom are subject to pattern, shade and colour variations. The Vendor reserves the right to cancel or reject any or all upgrades, or selections made by the Purchaser, provided that any payments made by the Purchaser for the upgrades, or selections, are returned in full upon cancellation. In the event that any or all of the upgrades are not installed or provided as specified, the Purchaser's sole recourse shall be the return of the monies paid for the particular incorrectly supplied or installed upgrades or selections. The Vendor shall not be responsible or obligated to replace the upgrade, or to install it in a different location.

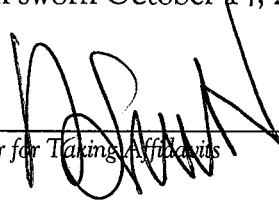
X. E. De Castro
 Décor Consultant

X. December 15, 2014
 Date:

X.
 Purchaser

X.
 Date:

This is Exhibit "C" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

INTERIM STATEMENT OF ADJUSTMENTS

RE: 144 Park Ltd. sale to Richard Magnussen and Marilyn Magnussen
Unit 1, Level 19, Unit 24, Level A, Unit 25, Level A, Unit 76, Level A, WSCP TBR
Suite GPH1, 144 Park Street, Waterloo, Ontario N2L 0B6

Tarion Builder Registration Number: 39278

Tarion Unit Enrolment Number: H1816787

Closing Date: September 8, 2014

PURCHASE PRICE inclusive of GST (where applicable)		\$ 1,051,500.00
UPGRADE CHARGES inclusive of HST		\$ 30,274.50
TOTAL DEPOSITS	\$ 180,300.00	
UNADJUSTED BALANCE DUE ON THE UNIT TRANSFER DATE	\$ 826,125.00	
BALANCE DUE ON CLOSING paid by certified cheque to <i>Harris, Sheaffer LLP, In Trust</i>	\$75,349.50	
E. & O.E.	<hr/>	<hr/>
	\$1,081,774.50	\$1,081,774.50

NOTE: In addition to the unadjusted balance due on closing, if any, the Purchaser must deliver the following cheques:

- (i) **Certified Cheque** payable to **Harris, Sheaffer LLP** in the sum of \$2,716.26 being the pro-rated amount of monthly Occupancy Fee from September 8, 2014 to the day prior to the first day of the following month.
- (ii) 4 post-dated cheques each dated the 1st of the month, in the sum of \$3,542.95 commencing October 1, 2014 payable to 144 Park Ltd.

In accordance with the Condominium Act, 1998 and the Agreement of Purchase and Sale, the Occupancy Fee comprises the following:

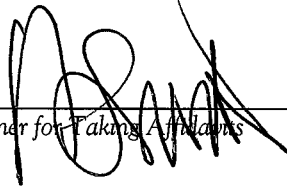
Estimated Total Common Expenses:	\$1,181.26
Estimated Realty Taxes:	\$200.00
Interest on the Unadjusted Balance Due on the Unit Transfer Date at the prescribed rate of 3.1400%	\$2,161.69
TOTAL	<hr/> \$3,542.95

NOTE 1: All calculations with respect to Goods and Services Tax or the Harmonized Sales Tax (if applicable), will be addressed on the Final Statement of Adjustments.
E. & O. E.

NOTE 2:

Please note it is the policy of this firm that funds being delivered to us by certified cheque for a closing must be from the purchaser's solicitor's trust account and not directly from a purchaser or any other person. No bank drafts are permitted.

This is Exhibit "D" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

144 Park Lt.d
AMENDMENT TO THE
AGREEMENT OF PURCHASE AND SALE

BETWEEN: 144 PARK LTD. (the "Vendor") and Richard and Marilyn Magnussen (the "Purchaser")
UNIT (Legal #) 19 Level 01 Suite 1901

It is hereby understood and agreed between the Vendor and the Purchaser that the following change(s) shall be made to the above-mentioned Agreement of Purchase and Sale, and except for such change(s) noted below, all other terms and conditions of the Agreement shall remain as stated therein, and time shall continue to be of the essence.

DELETE:

1. The purchase price of the Unit (the "Purchase Price") is Nine hundred one thousand five hundred dollars (\$ 901,500.00) DOLLARS in lawful money of Canada, payable as follows:

Schedule A of Unit PH1 at 2032.7 sq.ft

INSERT:

1. The purchase price of the Unit (the "Purchase Price") is One million fifty one thousand five hundred dollars (\$ 1,051,500.00) DOLLARS in lawful money of Canada, payable as follows:

Schedule A of Unit PH1 at 2369.5 sq.ft

DATED at Waterloo, this 30 day of June, 2009.

IN WITNESS whereof the parties hereto have affixed their hands and seals.

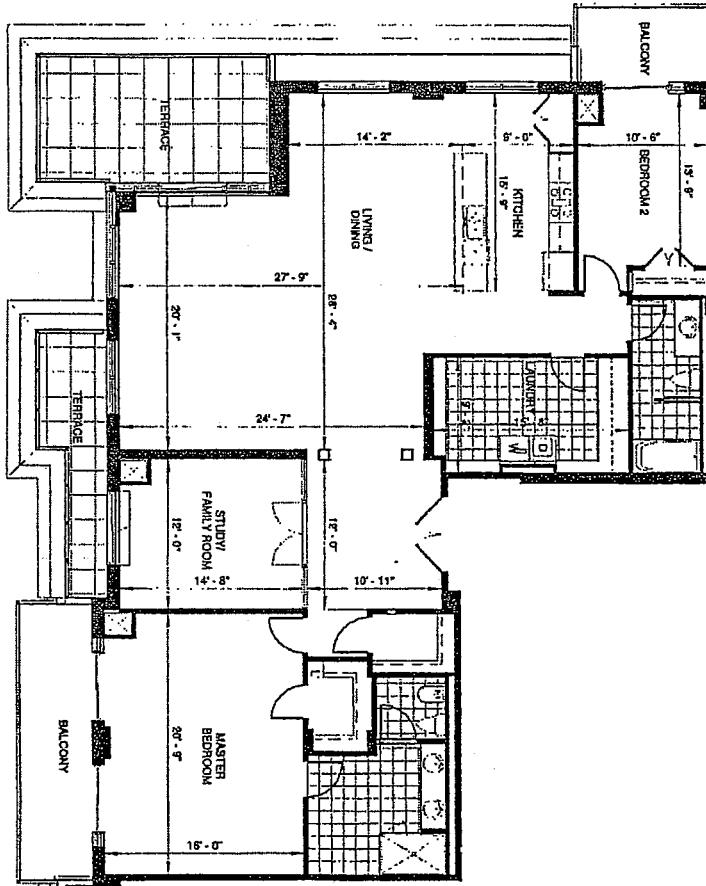
SIGNED, SEALED AND DELIVERED
in the presence of

) M. Magnussen
) Purchaser
) [Signature]
) Purchaser

144 PARK LTD.

Per: [Signature]
Authorized Signing Officer
Have the authority to bind the Corporation.

SCHEDULE 'A'



Purchaser:

Vendor:

June 30th, 2009

[Handwritten signature]

2B+STUDY

SUITE AREA:

220.1 m²

2369.5 ft²

BALCONY AREA:

19.1 m²

205.3 ft²

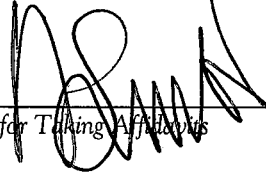
TERRACE AREA:

26.9 m²

289.3 ft²



This is Exhibit "E" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

Commissioner for Taking Affidavits

INTERIM CLOSING MEMORANDUM

RE: 144 Park Ltd. sale to Richard Magnussen and Marilyn Magnussen

Unit 1, Level 19, Unit 24, Level A, Unit 25, Level A, Unit 76, Level A, WSCP TBR
Suite GPH1, 144 Park Street, Waterloo, Ontario N2L 0B6

Tarion Builder Registration Number: 39278
Unit Enrolment Number: H1816787

Closing Date: September 8, 2014

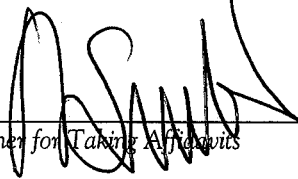
Items to be delivered by Purchaser to the Vendor's Solicitor on Closing Date:

1. Two executed copies of the Occupancy Acknowledgment (pursuant to Paragraph 23 and Schedule C of the Agreement of Purchase on Sale). Please ensure that the Occupancy/Acknowledgment is witnessed.
2. Cheques:
 - a) **Certified cheque** payable to **Harris, Sheaffer LLP, In Trust**, in the amount of \$75,349.50 representing the unadjusted balance due on the Closing Date, in accordance with Paragraph 1 of the Agreement.
 - b) **Certified cheque** payable to **Harris, Sheaffer LLP, In Trust**, in the amount of ^{1062.89}~~\$2,716.26~~ representing the Occupancy Fee from September 8, 2014 to the day prior to the first day of the following month.
 - c) 4 post-dated cheques each dated the 1st of the month in the sum of \$3,542.95 commencing October 1, 2014 payable to 144 Park Ltd.
3. Two executed copies of the Direction re Title indicating the manner in which your client will take title, providing the full name, birth date, social insurance number and address for service in the event your client will not be residing at the above-noted property. **If the Purchaser is requesting title to be taken differently then what is contemplated in the Agreement of Purchase and Sale, please notify our office in writing on an immediate basis.**
4. **A clear execution certificate** to be dated no earlier than three days prior to the Closing Date, against the name(s) in which title to the Unit is to be taken. If the filing of any executions with the Local Land Registrar shall prevent a clear execution certificate being available on the Closing Date, we shall require, by way of Statutory Declaration, confirmation from your client that he/she is not the execution debtor, where the stated amount of the execution is less than \$50,000.00 and by way of Statutory Declaration from the purchaser's solicitor, where the execution is in excess of \$50,000.00, confirming that the execution does not affect the purchaser. In addition, when any execution is registered in excess of \$50,000.00 and prevents the issuance of a clear execution certificate, we shall require confirmation from the execution creditor or its solicitors that your client is not one and the same person as the execution debtor (as required pursuant to the Agreement of Purchase and Sale).

NOTES:

1. *Please note it is the policy of this firm that funds being delivered to us by certified cheque for a closing must be from the purchaser's solicitor's trust account and not directly from a purchaser or any other person. No bank drafts are permitted.*
2. *Where documentation is being executed pursuant to a Power of Attorney, we will require a Notarial copy of the Power of Attorney, together with a Statutory Declaration from the Solicitor, that the Power of Attorney has not been revoked and remains in full force and effect.*

This is Exhibit "F" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, appearing to be 'R. Smith', written over a horizontal line.

Commissioner for Taking Affidavits

VENDORS DIRECTION

TO: Richard Magnussen and Marilyn Magnussen (the "Purchaser")

AND TO: Paul E. Grespan
McCarter Grespan Beynon Weir Professional Corporation
Barristers and Solicitors
Purchaser's Solicitor(s) herein

RE: 144 Park Ltd. sale to Richard Magnussen and Marilyn Magnussen
Unit 1, Level 19, Unit 24, Level A, Unit 25, Level A, Unit 76, Level A, WSCP TBR
Suite GPH1, 144 Park Street, Waterloo, Ontario N2L 0B6

YOU ARE HEREBY AUTHORIZED AND DIRECTED to make all funds due on the Occupancy Date payable to **Harris, Sheaffer LLP, In Trust**, or as they may direct in writing.

YOU ARE HEREBY AUTHORIZED AND DIRECTED to make the 4 post-dated cheques each dated the 1st of the month in the sum of \$3,542.95 commencing October 1, 2014 payable to 144 Park Ltd..

AND FOR SO DOING, this shall be your full, sufficient and irrevocable authority.

DATED this 16th day of January, 2014.

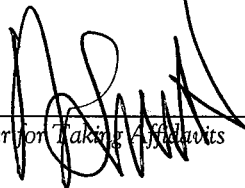
144 Park Ltd.

Per: Jonathan Mueller*
Jonathan Mueller - Vice-President, Sales & Marketing

I have authority to bind the corporation

* Executed pursuant to the Electronic Commerce Act

This is Exhibit "G" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, appearing to be "R. Magnussen", written over a horizontal line.

Commissioner for Taking Affidavits

Nancy Fiddler

From: Karen McNeill <kmcneill@harris-sheaffer.com>
Sent: January 5, 2015 8:59 AM
To: Nancy Fiddler
Subject: RE: Magnussen, 144 Park Street (Suite GPH1) (19401) Interim Occupancy September 22, 2014 (19401)

I would have your client make the necessary arrangements with respect to financing now.

Once the Declaration has been registered and a Final Closing Date has been set, we will notify your office in writing.

Kind regards,

Karen McNeill
Law Clerk
kmcneill@harris-sheaffer.com
direct dial 416.250.3695

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

Yonge Corporate Centre
4100 Yonge Street, Suite 610, Toronto, ON M2P 2B5
Telephone (416) 250-5800/Facsimile (416) 250-5300
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From: Nancy Fiddler [<mailto:nfiddler@mgbwlaw.com>]
Sent: Monday, January 05, 2015 9:01 AM
To: Karen McNeill
Subject: RE: Magnussen, 144 Park Street (Suite GPH1) (19401) Interim Occupancy September 22, 2014 (19401)

Good morning Karen

Our client advises that he has been told the condo will register the middle of January and closing funds will be due at that time. The APS provides for closing 20 days after notice has been given confirming the condominium has been registered.

Are you able to advise when registration is expected? Our client is travelling until January 15, 2015 and requires two weeks to arrange closing funds. I would like to provide our client with more information regarding the anticipated closing date as soon as possible.

Thank you.

Nancy Fiddler, Law Clerk
Direct Line 519.772.7179

nfiddler@mgbwlaw.com

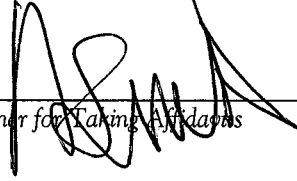
**McCARTER
/ GRESpan**
LAWYERS

675 Riverbend Drive
Kitchener ON N2K 3S3
T: 519.571.8800
F: 519.742.1841
www.mgbwlaw.com

McCarter Grespan Beynon Weir Professional Corporation

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This is Exhibit "H" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

Nancy Fiddler

From: Richard Magnussen <rmagnussen@Magnussen.com>
Sent: January 30, 2015 8:13 AM
To: Paul Grespan; Nancy Fiddler
Subject: Fwd: 144 Park
Attachments: ATT00001.htm; Notice to Purchasers.pdf; ATT00002.htm; Supplemental Disclosure Statement.pdf; ATT00003.htm

Please see notice

Richard Magnussen
Magnussen Home
CEO
C 519 580 5194
C 336 823 0984
Both numbers ring same cell phone

Begin forwarded message:

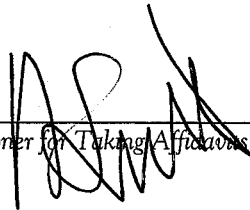
From: "Karen McNeill" <kmcneill@harris-sheaffer.com<mailto:kmcneill@harris-sheaffer.com>>
Cc: "Mark Karoly" <mkaroly@harris-sheaffer.com<mailto:mkaroly@harris-sheaffer.com>>, "Ari Katz" <akatz@harris-sheaffer.com<mailto:akatz@harris-sheaffer.com>>
Subject: 144 Park

Dear purchasers of units at 144 Park,

We are pleased to advise you that we are working with the Vendor to complete the last steps required for registration of the condominium. In this regard, we enclose a Notice to Purchasers and Supplemental Disclosure Statement, together with updated Declaration, Shared Facilities Agreement, and Budget Statement, which sets out a detailed description of the changes to the condominium documentation in connection with the development of the condominium to be known as 155 Caroline on the adjacent lands. The Vendor and our firm look forward to closing with you in new year.

Yours truly,
<<http://www.harris-sheaffer.com/>>

This is Exhibit "I" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, appearing to be "R. Magnussen", written over a horizontal line.

Commissioner for Taking Affidavits

DUNCAN, LINTON LLP

LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
MICHAEL A. VAN BODEGOM • PATRICK J. KRAEMER • DANIEL W. VEINOT
PETER A. HERTZ • MICHAEL R.E. KOCHOFF • THOMAS E. SANDERSON

(+ Denotes Professional Corporation)

P.O. BOX 457
45 ERB STREET EAST
WATERLOO, ONTARIO
N2J 4B5

TEL: 519-886-3340
FAX: 519-886-8651
WEBSITE: www.kwlaw.net
EMAIL: iad@kwlaw.net

March 5, 2015
File No. 0039490

Arif Dhanani
COLLINS BARROW TORONTO LLP, TRUSTEE
Collins Barrow Place
11 King Street West, Suite 700
Toronto, ON M5H 4C7

VIA FAX (1-416-480-2646)

Dear Mr. Dhanani:

Re: 144 Park Ltd.

We have been retained by a number of individuals who have purchased condominium units in this project. Attached, please find a Schedule of the unit purchasers who have authorized us to send this letter.

Our clients are anxious to see the project completed and for the condominium to be registered. Part of that process requires the sale of the remaining 20 unsold units. We also understand that MADY Developments has "oversold" the parking spaces available for sale, thereby creating a potential marketability issue for the unsold units. Of course, units sold without parking spaces will also be worth less.

We are concerned that appropriate steps be taken immediately to accomplish the following:

1. Registration of the condominium and closing of the present unit sales;
2. Completion of all work on the project; and,
3. Sale of the remaining 20 unsold units.

The visitor parking issue must be resolved prior to completing registration of the condominium plan. We understand that, at least as of March 2, the City of Waterloo has not been formally approached to deal with this issue. We also note that you are aware of a Letter

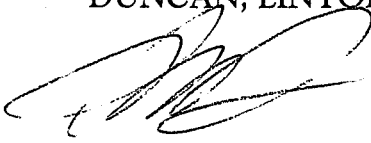
of Intent from Clearlake Holdings Ltd. that sets out a proposed sale of the 20 unsold units en bloc, without parking spaces. If Clearlake Holdings Ltd. is prepared to proceed with that transaction, we are of the view that it should be actively pursued unless there are good reasons not to do so.

Our clients' best information is that the trustee is not undertaking any organized sales process. As far as we are aware, the only sales efforts presently being undertaken are by MarshallZehr Group Inc. The trustee – not MarshallZehr Group – is charged with considering all stakeholders' interests in this project, and, in our view, the trustee should be taking reasonable steps to market the project independent of MarshallZehr Group.

On behalf of our clients, we request a meeting with you to discuss the trusteeship and the concerns of the present unit purchasers. Time is of the essence and it appears to be in the best interests of all stakeholders that the issues identified above be addressed and this project completed as expeditiously as possible.

We look forward to your prompt response.

Yours very truly,
DUNCAN, LINTON LLP



Irwin A. Duncan
IAD/tb

SCHEDULE OF UNIT PURCHASERS

Scott Cooper

Kristin Cooper

David Jarram

Kelly Donovan

James Campbell

Wilmer Martin

Janet Martin

Emilia Venne

Juliane Breidenbach

Idris Baig

Janna Sogomonean

Bryan Woodhall

John Miller

Jamieson Miller

Karen Mason

Dave Mason

AJ Mueller

Kerry Mueller

Richard Magnussen

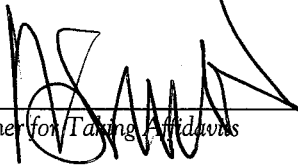
Marilyn Magnussen

Tom Agar

Lauren Agar

Geoff Layton

This is Exhibit "J" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

CLEARLAKE
HOLDINGS LTD.

LETTER OF INTENT TO PURCHASE

CONFIDENTIAL

February 6, 2015

ATTN: David Marshall

Marshall Zehr Group Inc.
460 Phillip Street, Suite 206
Waterloo, ON, N2L 6C7

And to

144 PARK LTD.
c/o Mady Development Corporation
8791 Woodbine Avenue, Suite 100
Markham, ON, L3R 0P4

To Whom It May Concern:

Please accept this letter as a letter of intent for the purchase of twenty (20) unfinished Condominium Units at 144 Park Street, Waterloo as further described below. ***This letter is not to be construed as a binding commitment, but only as an expression of interest.*** The terms and details of the proposed acquisition are described as follows:

PROPERTY: Conveyance of twenty (20) Condominium Units at 144 Park Street, Waterloo. Said units are known as suites 102, 107, 106, 502, 503, 702, 706, 710, 809, 810, 1110, 1203, 1306, 1503, 1506, 1607, 1707, 1807, GPH3, and GPH4.

PROPOSED PRICE: A total purchase price of \$6,300,000 including HST.

The above noted purchase price shall further include a total of six (6) parking spaces (known as 1-38, 2-2, 3-10, 3-11, 3-12, 3-13), twenty (20) storage units (known as 1-16, 1-17, 1-25, 1-26, 1-27, 1-28, 2-26, 2-27, 2-28, 2-29, 2-30, 2-31, 2-32, 2-33, 2-34, 2-35, 2-36, 2-37, 3-43, 3-44) and all available fixtures and finishing materials that relate to the said units which are currently located on or about the real property at 144 Park Street, Waterloo. It is assumed all units, parking spaces and storage lockers will be delivered free of all liens and encumbrances on closing. It is also to be agreed and understood that as part of this Agreement, Purchaser shall have the right to assign the contract of any unit under this Agreement anytime prior to closing. Vendor agrees to cooperate in providing prompt approval, as necessary, to facilitate the assignment of units or transfer of parking spaces within the building, and in any case within 3 business days of receiving written request of the same. It is agreed and understood that the Purchaser of each contract will have the ability to begin finishing in the unit immediately following the firming of said contracts. The Purchaser and the Vendor agree that the Purchaser shall be responsible to fulfill all conditions for residential occupancy of the said condominium units as set out in s. 11 of the Building Code Act or Article 1.3.3.2 of Division C of the Building Code. The Purchaser acknowledges that the Purchaser may not refuse to take occupancy on the basis that the conditions of occupancy have not been completed. The Purchaser will be solely responsible for the Conditions of Occupancy and all necessary approvals and permits, including but not limited to: City of Waterloo Building Department and related municipal departments, and the Electrical Safety Authority.

FINANCIAL TERMS: \$30,000 – Deposit with offer
\$600,000 – 5 business days following the waiver of all conditions
\$5,670,000 – cumulative following all closings

CONDITIONS: **Assignment of Units:** The Agreement shall be conditional upon the Purchaser assigning each condominium unit to an individual purchaser (assignee). Unless the Purchaser gives notice in writing delivered to the Vendor within 15 business days of the accepted date of the Agreement, this offer shall be null and void.

Removal of Security: Receipt of formal confirmation of mortgage discharge from Marshall Zehr Group Inc. specific to the \$3 Million general security mortgage currently in position on the lands known municipally as 141, 145 and 155 Caroline Street South, Waterloo, ON within 3 business days of removal of the above condition.

CLOSING: Anticipated closing of each condominium unit to begin no earlier than June 1, 2015 and occur no later than August 1, 2015.

Should the above terms and conditions be deemed generally acceptable as evidenced by the execution of the acknowledgement by the Vendor below, it is agreed that the Purchaser will generate a formal offer to purchase the Condominium Units within 5 business days setting out all terms, conditions, representations and warranties. During said time, the Vendor agrees not to enter into a formal offer of Option, Purchase and Sale or other related commitment with other parties. In the event that the Purchaser fails to generate same or the parties fail to agree to the terms of the offer within that time, the Vendor may deal with other parties as it sees fit. The parties hereto agree to keep the terms of this letter confidential at all times, even if the offer is not finalized or the transaction not completed for any reason.

I appreciate your time and effort and look forward to your immediate response and no later than February 9, 2015.

Thank you,

CLEARLAKE HOLDINGS LTD.


Per: Jeffrey P. Gibson, President

I have the authority to bind the corporation

Acknowledgement

I/WE HEREBY accept the terms and conditions as stated herein.

DATED AT _____, this _____ day of February, 2015.

MARSHALL ZEHR GROUP INC.

Per:

I have the authority to bind the corporation

This is Exhibit "K" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

Irwin A. Duncan

From: Sam P. Rappos <samr@chaitons.com>
Sent: March-11-15 11:53 AM
To: Irwin A. Duncan
Cc: Bryan A. Tannenbaum; Arif N. Dhanani; Harvey G. Chaiton
Subject: RE: 144 Park Street

Irwin,

We write to you in response to your letter dated March 5, 2015. We are counsel to Collins Barrow Toronto Limited, which was appointed by court order dated January 22, 2015 as trustee of 144 Park under the *Construction Lien Act*. Further information regarding the proceedings can be found on the Trustee's website at <http://www.collinsbarrow.com/en/cbn/restructuring-and-recovery-engagements/144-park-ltd>.

Pursuant to its powers under the court order, the trustee is working closely with the City of Waterloo and the Region to complete all necessary steps to have the condo declaration registered. The process is continuing. With respect to the unsold units, the trustee currently does not have the authority under the court order to market the units for sale. The intention is that the trustee will seek such authority once the condo has been registered and the sales of the pre-sold units have been completed. The sale of the unsold units does not need to take place for registration to occur. Once it has the authority to do so, the trustee will conduct an open and transparent sale process for the units, which will be subject to the Court's direction. Any sale of the units will have to be approved by the Court on notice to the parties on the service list for the proceeding. We have added you to the service list. The trustee is unaware of the LOI from Clearlake. If you are in contact with Clearlake, you can have them contact the trustee regarding their potential interest in the property.

The trustee is working with MarshallZehr as mortgagee to determine what outstanding work needs to be completed and the associated costs. At this time, the trustee is not sure what can be achieved through a meeting with you. As you have been added to the service list, you will become aware of the steps in the proceeding as they occur.

To the extent we have not specifically responded to a point in your letter, please do not take that to mean that the trustee agrees with such points.

Best regards,
Sam

From: Theresa Burbank [<mailto:theressa@kwlaw.net>]
Sent: Monday, March 09, 2015 4:42 PM
To: Arif N. Dhanani
Subject: 144 Park Street

Please find attached our letter to you dated March 9, 2015.

Regards,

**Theresa Burbank, Senior Law Clerk | Duncan, Linton LLP | www.kwlaw.net | 45 Erb Street East,
Waterloo, ON N2J 4B5**

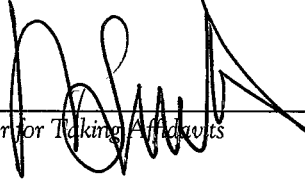
t: (519) 886-3400, Ext 232 | f: (519) 886-8651 | e: theressa@kwlaw.net

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Sam P. Rappos

Lawyer | Chaitons LLP | T: 416.218.1137

This is Exhibit "L" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

Nancy Fiddler

From: Nancy Fiddler
Sent: May 21, 2015 8:54 AM
To: 'Karen McNeill'
Subject: RE: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, (19401)

Thanks Karen.

Nancy Fiddler, Law Clerk
Direct Line 519.772.7179
nfiddler@mgbwlaw.com

**McCARTER
GRESPAN**
LAWYERS

675 Riverbend Drive
Kitchener ON N2K 3S3
T: 519.571.8800
F: 519.742.1841
www.mgbwlaw.com

McCarter Grespan Beynon Weir Professional Corporation

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From: Karen McNeill [<mailto:kmcneill@harris-sheaffer.com>]
Sent: May 21, 2015 8:56 AM
To: Nancy Fiddler
Subject: RE: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, (19401)

I have not been informed that the Declaration has been registered. Once I have been advised and a final closing date has been set, I will notify your office in writing.

Karen McNeill
Law Clerk
kmcneill@harris-sheaffer.com
direct dial 416.250.3695

HARRIS, SHEAFFER LLP
BARRISTERS & SOLICITORS

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Nancy Fiddler

From: Nancy Fiddler
Sent: May 21, 2015 8:44 AM
To: 'Karen McNeill'
Subject: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, (19401)

Good morning Karen

Our client has indicated that the condominium declaration has been registered. Please advise if that is correct and when we will be hearing from you regarding completing the purchase.

Thank you.

Nancy Fiddler, Law Clerk
Direct Line 519.772.7179
nfiddler@mgbwlaw.com

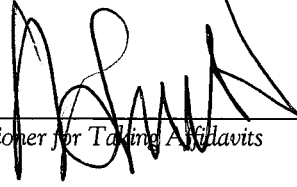
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F: 519.742.1841
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Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

From: Karla Roelofsz [<mailto:kroelofsz@mady.com>]
Sent: Monday, June 01, 2015 8:04 AM
To: Karla Roelofsz
Subject: Registration - Closings

Dear Residents,

We are pleased to advise that 144 Park is now a registered condominium. Collins Barrow Toronto Limited (the "Trustee") and its consultants are working hard to finalize the closing arrangements for the individual suites. We expect that your lawyers will be in contact with you once they have received closing packages from Harris Sheaffer LLP, the law firm handling unit closing procedures for the Trustee.

The Trustee understands that certain residents may be desirous of closing on an expedited basis as they may not require traditional bank approvals and mortgages, but would rather close on a cash basis.

I have been asked to compile a list of those residents that wish to close on an accelerated basis. If those residents that are interested in doing so could please contact me as soon as possible, this would be appreciated. I will forward your name to the Trustee so that its counsel may contact your lawyer to advise of an accelerated closing date, if an accelerated closing date is possible.

Kind regards,

Karla Roelofsz
Customer Service Team Leader
MADY Development Corporation

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This is Exhibit "N" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

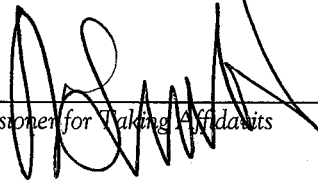
From: Richard Magnussen
Sent: Monday, June 01, 2015 8:06 AM
To: 'Karla Roelofsz'
Cc: 'Marilyn Magnussen'
Subject: RE: Registration - Closings

Put Marilyn and I on the fast list... no bank
Thanks

Richard Magnussen

CEO
Magnussen Home
cell 519 580 5194 Canada
cell 336 823 0984 US
office 519 662 3040 #342
Skype magnh-rmagnussen

This is Exhibit "O" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

Commissioner for Taking Affidavits

On Jun 16, 2015, at 4:02 AM, Richard Magnussen

<rmagnussen@Magnussen.com<<mailto:rmagnussen@Magnussen.com>>> wrote:

Karla

Any word on closing ? Marilyn and I have not received notice .

I would think intern payment for July would meet with significant resistance at this point given we have been registered

Update would be great on progress , when the 50% closing is expected . Maybe Sally could give an update verbally at the informal turn over meeting June 25/15 .

Your thoughts on progress would be appreciated .

Thanks

Richard Magnussen

CEO

Magnussen Home

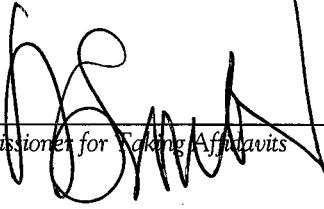
C 519 580 5194 Canadian

C 336 823 0984 USA

Office 519 662 3040 # 342

Skype magnh-rmagnussen

This is Exhibit "P" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

From: Karla Roelofsz <kroelofsz@mady.com<mailto:kroelofsz@mady.com>>
Date: June 16, 2015 at 6:27:06 AM EDT
To: Richard Magnussen <rmagnussen@Magnussen.com<mailto:rmagnussen@Magnussen.com>>
Cc: Sally Dooman <Sally.Dooman@fsresidential.com<mailto:Sally.Dooman@fsresidential.com>>, Wilmer Martin
<martin@tourmagination.com<mailto:martin@tourmagination.com>>,
"kerryemueller@gmail.com<mailto:kerryemueller@gmail.com>"
<kerryemueller@gmail.com<mailto:kerryemueller@gmail.com>>, Scott Cruickshank
<scott@mintrealty.ca<mailto:scott@mintrealty.ca>>, "Jamie Miller"
<jmiller6812@icloud.com<mailto:jmiller6812@icloud.com>>
Subject: Re: Individual condo closings

Hello,

I spoke with the trustee yesterday regarding closing.

He advised that they are working on all closing's now.

Your lawyer should be hearing from the 144 Park lawyers very soon.

Karla Roelofsz
Customer Service Team Leader
MADY Development Corporation

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This is Exhibit "Q" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

Commissioner for Taking Affidavits

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

YONGE CORPORATE CENTRE
4100 YONGE STREET, SUITE 610, TORONTO, ONTARIO M2P 2B5
TELEPHONE (416) 250-5800 / FACSIMILE (416) 250-5300

June 16, 2015
File No.: 090328
Contact: Karen McNeill at 416-250-3695

Delivered by Facsimile Only (1-519-742-1841)

Paul E. Grespan
McCarter Grespan Beynon Weir Professional Corporation
Barristers and Solicitors
675 Riverbend Drive
Kitchener, Ontario N2K 3S3

Dear Sirs:

RE: 144 Park Ltd. by its Court Appointed Trustee, Collins Barrow Toronto Limited sale to Richard Magnussen and Marilyn Magnussen
Unit 1, Level 19, WSCP 591
Suite GPH1, 144 Park Street, Waterloo, Ontario N2L 0B6

We are pleased to advise that the Declaration and Description creating the condominium were registered in the Land Registry Office for the Land Titles Division of Waterloo on May 25, 2015 pursuant to Instrument Number WR882241 thereby creating Waterloo Condominium No. 591.

We also wish to advise you that Collins Barrow Toronto Limited was appointed by court order as Trustee of the property owned by 144 Park Ltd., including the units in the condominium. The court order was registered on title to said property on January 23, 2015 as Instrument No. WR863820.

At the time of execution of the Agreement of Purchase and Sale, the Vendor agreed to sell to the Purchaser(s) a second Parking Unit. Unfortunately there are not sufficient parking units available to be sold in this project. Accordingly, the Court Appointed Trustee is requesting that the Purchaser(s) agree to amend the Agreement of Purchase and Sale to delete the second Parking Unit and correspondingly reduce the Purchase Price by the amount of \$33,900.00 (inclusive of HST). If your client is agreeable to same, please sign and return a copy of this letter to us by no later than 5:00 p.m. on June 22, 2015 and we will then be in a position to set a final closing date. If we do not hear from you by that time or if your client is not agreeable to the Amendment, the Trustee may seek a Court Order terminating the Agreement of Purchase and Sale.

Yours very truly,
Harris, Sheaffer LLP

*Mark Karoly**

Mark Karoly

**Executed pursuant to the Electronic Commerce Act*

The undersigned agrees to amend the Agreement of Purchase and Sale in the manner described above. Dated this _____ day of June, 2015.

Richard Magnussen and Marilyn Magnussen, by his/her/their solicitor
Paul E. Grespan.

Per _____
Paul E. Grespan

■
BARRY ROTENBERG

■
GARY H. HARRIS

■
ROBERT D. SHEAFFER

■
PHILIP J. DRAHER

■
MARK F. FREEDMAN
(1981 - 2009)

■
JEFFREY P. SILVER

■
STEPHEN M. KARR

■
MARTIN P. HOUSER

■
MARK L. KAROLY

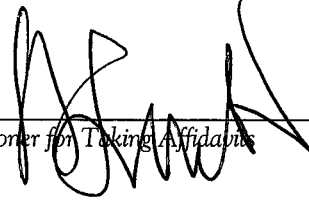
■
MICHAEL J. BAUM

■
ARI M. KATZ

■
RAZVAN NICOLAE

■
ROBERT STONE

This is Exhibit "R" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

Paul E. Grespan
(519) 571-8800, Ext. 219
pgrespan@mgbwlaw.com

Nancy Fiddler, Law Clerk
Direct Line (519) 772-7179
nfiddler@mgbwlaw.com

FAXED
**MCCARTER
GRESPAN**
LAWYERS

File No. 19401

June 16, 2015

VIA FAX (1 416 250 5300)

Harris, Sheaffer LLP
Barristers & Solicitors
Yonge Corporate Centre
610-4100 Yonge Street
Toronto, Ontario M2P 2B5

Attention: Mark Karoly/Karen McNeill

Dear Sir:

Re: Magnussen purchase from 144 Park Ltd.
144 Park Street, Suite GPH1, Waterloo
Unit 1, Level 19, Unit 24, Level A, Unit 25, Level A, Unit 76, Level A, WSCP 591

We have reviewed the contents of your June 16, 2015 letter with our clients.

Mr. and Mrs. Magnussen are not willing to give up a parking spot. The GPH (Grand Penthouse) was marketed with 2 parking spots as standard in the price. Our clients did not purchase an extra unit like many of those who had only one included in their price. Penthouses normally are marketed including 2 parking spots as the square feet are double or triple that of the average unit.

Yours very truly,

MCCARTER GRESPAN BEYNON WEIR PROFESSIONAL CORPORATION

Paul E. Grespan
:nf

c.c. Richard Magnussen and Marilyn Magnussen

MODE = MEMORY TRANSMISSION

START=JUN-16 10:34

END=JUN-16 10:35

FILE NO.=294

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-MGRB

***** -MGRB

- ***** -

519 742 1841- *****

Paul E. Grespan
(519) 571-8800, Ext. 219
pgrespan@mgbwlaw.com

Nancy Fiddler, Law Clerk
Direct Line (519) 772-7179
nfiddler@mgbwlaw.com

**McCARTER
GRESPAN**
LAWYERS

File No. 19401

June 16, 2015

VIA FAX (1 416 250 5300)

Harris, Sheaffer LLP
Barristers & Solicitors
Yonge Corporate Centre
610-4100 Yonge Street
Toronto, Ontario M2P 2B5

Attention: Mark Karoly/Karen McNeill

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144 Park Street, Suite GPH1, Waterloo
Unit 1, Level 19, Unit 24, Level A, Unit 25, Level A, Unit 76, Level A, WSCP 591

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Yours very truly,

MCCARTER GRESPAN BEYNON WEIR PROFESSIONAL CORPORATION

Paul E. Grespan
:mf

c.c. Richard Magnussen and Marilyn Magnussen

This is Exhibit "S" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

YONGE CORPORATE CENTRE
4100 YONGE STREET, SUITE 610, TORONTO, ONTARIO M2P 2B5
TELEPHONE (416) 250-5800 / FACSIMILE (416) 250-5300

July 6, 2015
File No.: 090328
Contact: Karen McNeill at 416-250-3695

Delivered by Facsimile Only (1-519-742-1841)

Paul E. Grespan
McCarter Grespan Beynon Weir Professional Corporation
Barristers and Solicitors
675 Riverbend Drive
Kitchener, Ontario N2K 3S3

Dear Sirs:

RE: 144 Park Ltd. by its Court Appointed Trustee, Collins Barrow Toronto Limited sale to Richard Magnussen
and Marilyn Magnussen
Unit 1, Level 19, WSCP 591
Suite GPH1, 144 Park Street, Waterloo, Ontario N2L 0B6

This is further to our letter to you dated June 15, 2015 relating to the parking units in the above property.

It has come to our attention that the purpose of the letter may have been misunderstood by some Purchasers so we are writing to you to clarify the reason that our urgent letter was sent.

The Condominium contains 148 residential units and 149 permanent parking units. When the Trustee assumed control of the project, it determined that there were 129 Agreements of Purchase and Sale in place with commitments to sell 156 parking units. In other words, there are insufficient parking units constructed to allow all existing Agreements to be completed in accordance with their terms. Furthermore, there are 19 unsold units in the building. As you know, a Trustee has a fiduciary duty to maximize the value of the property for the benefit of Lien Claimants and Creditors. To do so, the Trustee is of the opinion that it needs to be able to allocate some parking units to the unsold units in order to preserve marketability and sell the units at a reasonable value.

For your information, there are also ten (10) parking spaces in the building that can be used as parking until the adjoining building is constructed. At that time, these ten (10) parking spaces will become drive aisles and will be unavailable for parking purposes. The Trustee has not yet determined how these parking spaces can be allocated but it will be in a position to lease these spaces on a temporary basis.

We hope that the above provides some clarification to you as to the purpose of our prior correspondence. Based on the above, we would ask that you kindly speak with your clients and ask them whether they are prepared to reconsider their position on this matter. If they are prepared to do so, please return an executed copy of our June 15, 2015 letter by no later than July 10, 2015.

Yours very truly,
Harris, Sheaffer LLP

Ari Katz*

Ari Katz

*Executed pursuant to the Electronic Commerce Act

BARRY ROYENBERG

GARY H. HARRIS

ROBERT D. SHEAFFER

PHILIP J. DRAJIC

MARK F. FINZEMAN
(1981 - 2009)

JUDYCE P. SILVER

STEPHEN M. KARR

MARTIN P. HOUSLER

MARK L. KAROLY

MICHAEL J. BAUM

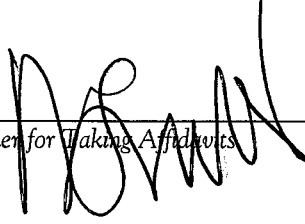
ARI M. KATZ

RAZVAN NIKOLAK

ROBERT STODOL

This is Exhibit "T" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

Commissioner for Taking Affidavits

A handwritten signature in black ink, appearing to be 'R. Magnussen', is written over a horizontal line. The signature is stylized and cursive.

Paul E. Grespan
(519) 571-8800, Ext. 219
pgrespan@mgbwlaw.com

Nancy Fiddler, Law Clerk
Direct Line (519) 772-7179
nfiddler@mgbwlaw.com



File No. 19401

July 7, 2015

VIA FAX (1 416 250 5300)

Harris, Sheaffer LLP
Barristers & Solicitors
Yonge Corporate Centre
610-4100 Yonge Street
Toronto, Ontario M2P 2B5

Attention: Mark Karoly/Karen McNeill

Dear Sir:

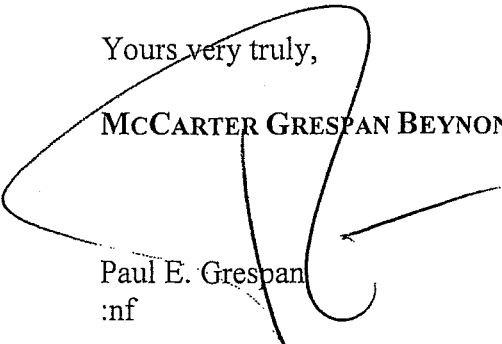
Re: Magnussen purchase from 144 Park Ltd.
144 Park Street, Suite GPH1, Waterloo
Unit 1, Level 19, Unit 24, Level A, Unit 25, Level A, Unit 76, Level A, WSCP 591

We have reviewed the contents of your July 6, 2015 letter with our clients.

As previously advised, Mr. and Mrs. Magnussen are not willing to give up a parking spot. The GPH (Grand Penthouse) was marketed with 2 parking spots as standard in the price. Our clients did not purchase an extra unit like many of those who had only one included in their price. Penthouses normally are marketed including 2 parking spots as the size of the unit is double or triple that of the average unit. In addition, having less than 2 parking spaces greatly diminishes the value of the unit by much more than your imputed price of the parking unit.

Yours very truly,

MCCARTER GRESPAN BEYNON WEIR PROFESSIONAL CORPORATION



Paul E. Grespan
:nf

c.c. Richard Magnussen and Marilyn Magnussen

MODE = MEMORY TRANSMISSION

START=JUL-07 15:50

END=JUL-07 15:51

FILE NO.=559

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-MGRB

***** -MGRB

- ***** -

519 742 1841- *****

Paul E. Grespan
(519) 571-8800, Ext. 219
pgrespan@mgbwlaw.com

Nancy Fiddler, Law Clerk
Direct Line (519) 772-7179
nfiddler@mgbwlaw.com

**McCARTER
GRESPAN**
LAWYERS

File No. 19401

July 7, 2015

VIA FAX (1 416 250 5300)

Harris, Sheaffer LLP
Barristers & Solicitors
Yonge Corporate Centre
610-4100 Yonge Street
Toronto, Ontario M2P 2B5

Attention: Mark Karoly/Karen McNeill

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144 Park Street, Suite GPH1, Waterloo
Unit 1, Level 19, Unit 24, Level A, Unit 25, Level A, Unit 76, Level A, WSCP 591

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Yours very truly,

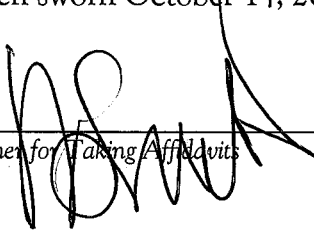
MCCARTER GRESPAN BEYNON WEIR PROFESSIONAL CORPORATION

Paul E. Grespan
.mf

c.c. Richard Magnussen and Marilyn Magnussen

This is Exhibit "U" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

Commissioner for Taking Affidavits

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned over the printed title of the Commissioner for Taking Affidavits.

DUNCAN, LINTON LLP

LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
MICHAEL A. VAN BODEGOM • PATRICK J. KRAEMER • DANIEL W. VEINOT
PETER A. HERTZ • MICHAEL R.E. KOCHOFF • THOMAS E. SANDERSON

(+ Denotes Professional Corporation)

P.O. BOX 457
45 ERB STREET EAST
WATERLOO, ONTARIO
N2J 4B5

TEL: 519-886-3340
FAX: 519-886-8651
WEBSITE: www.kwlaw.net
EMAIL: iad@kwlaw.net

July 9, 2015
File No. 0039490

Arif Dhanani
COLLINS BARROW TORONTO LLP, TRUSTEE
Collins Barrow Place
11 King Street West, Suite 700
Toronto, ON M5H 4C7

VIA FAX (1-416-480-2646)

Dear Mr. Dhanani:

Re: 144 Park Ltd. – Unit Purchases

We have been retained by a number of individuals who have purchased condominium units in this project. For clarity, this letter is not on behalf of the “ad hoc committee” but rather a separate group of concerned unit holders whom have signed Agreements of Purchase and Sale (“APS”) for units at 144 Park.

We have been advised by our clients that they have been approached by representatives of both MarshallZehr and Collins Barrow and been told that they must agree to release their entitlement to purchase two parking spaces or their APS will be revoked. The unit holders have been offered various amounts as “compensation” for releasing one of their parking spots. Certain representations have been made concerning financial viability of the project that make it essential for our clients to agree to relinquish one parking space for what appears to be inadequate compensation. Not only is the proposed reduction in purchase price inadequate compensation for the lost parking space, there is no compensation for the obvious reduction in value of the residential unit. Letters are also being sent by Harris Sheaffer indicating that if unit purchasers do not relinquish parking spaces that “the Trustee may seek a Court Order terminating the Agreement of Purchase and Sale”.

Before our clients can assess their position and respond to the Trustee's requests, they require an understanding of the current financial circumstances for 144 Park. Please provide us with an accounting of the project to date. That should include the status of deposits, arrears of interim occupancy payments, the status of the condominium reserve fund and the amounts required to pay out MarshallZehr with respect to its second mortgage and any amounts owing in relation to the super-priority loan.

Furthermore, our clients have reviewed the documentation surrounding the 95 units that are expected to close in early July. We note that Appendix O lists the units that are closing in early July and seven of those units are entitled to two parking spots. Our clients need an explanation of why these seven units are entitled to two parking spaces (if they are in fact receiving those spaces). Once again, we will need this information immediately so that our clients can properly assess the offer to release one of their parking spots.

Our clients also note that there is an additional ten parking spots available, at least on an interim basis, in the area that is projected to connect with the 155 Park project. Our clients also request an explanation of the proposal for this interim parking area. As we understand it, the Trustee has no authority to effect a sale of the 20 unsold units. Please advise if you intend to seek authority to deal with those unsold units.

We are concerned that the Trustee take steps to adequately protecting the interests of unit purchasers and not to act concert with the second mortgagee, MarshallZehr in an effort to maximize payment of its second mortgage security. Unit purchasers entered into Agreements of Purchase and Sale many months ago, have taken occupancy of those units and paid interim occupancy payments. They have also paid significant deposits and arranged for and paid for upgrades to their units. All of this occurred with the full knowledge of the mortgagees (who consented to the condominium registration in May 2015). Unit purchasers were repeatedly promised that their purchase transactions would be closed soon after registration was obtained.

On behalf of our clients, we once again request a meeting with you to discuss the concerns of the present unit purchasers. Time is of the essence and it appears to be in the best interests of all stakeholders that the issues identified above be addressed and this project completed as expeditiously as possible. We will provide a proposed agenda for this meeting once we are provided the information requested in this letter.

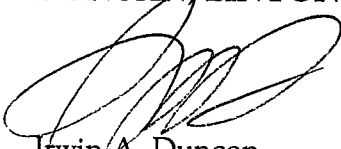
In sum, we request the following information so that unit purchasers can make an informed decision on whether to release their second parking spot:

1. A current financial accounting for 144 Park;
2. An explanation of why seven of the units projected to close are entitled to two parking spaces;

3. An explanation of the plans for any interim parking in the area that is projected to connect with the 155 Park project; and,
4. The expected vesting date for the remaining units at 144 Park.

We look forward to your prompt response.

Yours very truly,
DUNCAN, LINTON LLP



Irwin A. Duncan
IAD/JJAG

Transmission Report

Date/Time
Local ID 1

07-09-2015
5198868651

03:27:14 p.m.

Transmit Header Text
Local Name 1

Duncan Linton

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

DUNCAN, LINTON LLP LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
MICHAEL A. VAN BODEGOM • PATRICK J. KRAEMER • DANIEL W. VEINOT
PETER A. HERTZ • MICHAEL R.E. KOCHOFF • THOMAS E. SANDERSON

(+Denotes Professional Corporation)

P.O. BOX 457
45 ERB STREET EAST
WATERLOO, ONTARIO
N2J 4B5

TEL: 519-886-3340
FAX: 519-886-8631
WEBSITE: www.kwlaw.net
EMAIL: iad@kwlaw.net

July 9, 2015
File No. 0039490

Arif Dhanani
COLLINS BARROW TORONTO LLP, TRUSTEE
Collins Barrow Place
11 King Street West, Suite 700
Toronto, ON M5H 4C7

VIA FAX (1-416-480-2646)

Dear Mr. Dhanani:

Re: 144 Park Ltd. – Unit Purchases

We have been retained by a number of individuals who have purchased condominium units in this project. For clarity, this letter is not on behalf of the "ad hoc committee" but rather a separate group of concerned unit holders whom have signed Agreements of Purchase and Sale ("APS") for units at 144 Park.

We have been advised by our clients that they have been approached by representatives of both MarshallZehr and Collins Barrow and been told that they must agree to release their entitlement to purchase two parking spaces or their APS will be revoked. The unit holders have been offered various amounts as "compensation" for releasing one of their parking spots. Certain representations have been made concerning financial viability of the project that make it essential for our clients to agree to relinquish one parking space for what appears to be inadequate compensation. Not only is the proposed reduction in purchase price inadequate compensation for the lost parking space, there is no compensation for the obvious reduction in value of the residential unit. Letters are also being sent by Harris Sheaffer indicating that if unit purchasers do not relinquish parking spaces that "the Trustee may seek a Court Order terminating the Agreement of Purchase and Sale".



Total Pages Scanned : 3

Total Pages Confirmed : 3

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Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

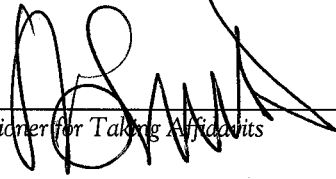
PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
RP: Report
FF: Fax Forward

CP: Completed
FA: Fall
TU: Terminated by user

TS: Terminated by system
G3: Group 3
EC: Error Correct

This is Exhibit "V" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits



REPLY TO: SAM RAPPOS
FILE NO.: 56868
DIRECT: 416-218-1137
FAX: 416-218-1837
EMAIL: samr@chaitons.com

July 17, 2015

VIA EMAIL

Irwin A. Duncan
Duncan, Linton LLP
45 Erb Street East
Waterloo, ON N2J 4B5

Re: 144 Park Ltd.

Dear Mr. Duncan,

We write to you in response to your letters dated July 9 and 16, 2015.

You have requested a financial accounting for the project. More specifically, you have requested "the status of deposits, arrears of interim occupancy payments, the status of the condominium reserve fund and the amounts required to pay out MarshallZehr with respect to its second mortgage and any amount owing in relation to the super-priority loan."

With respect to the status of the deposits, we ask that you please confirm the identity of your clients. Once we have that information, we can confirm the status of the deposits for your clients. Due to privacy issues, we cannot divulge information regarding the status of deposits for other residents.

With respect to arrears of interim occupancy payments, again, we can confirm the arrears with respect to your clients, but we cannot divulge information regarding other residents. We do note that, in closing the sale of each unit, the Trustee has been or will be collecting from purchasers / residents the interim occupancy arrears, as will be reflected in the statement of adjustments for the relevant purchasers / residents.

With respect to the status of the condominium reserve fund, the best person to answer this question is the property manager, First Service Residential of Ontario. The property manager's name is Sally Dooman and her telephone number is (416) 847-1364.

With respect to the amount required to repay the MarshallZehr second mortgage, as previously reported to the Service List, as of February 13, 2015, the amount outstanding was \$3,320,808.64.

With respect to the amount owing in relation to the super-priority loan, as of July 17, 2015, the Trustee will have repaid such loan, in the amount of \$517,062.30, which is inclusive of accrued interest and a \$250 administrative fee.

You have also requested information as to the status of the seven units that were listed as units to be closed by the Trustee that had listed two parking spaces allocated to each unit. The Trustee contacted each of the seven purchasers and requested that they relinquish one



of their parking spaces in exchange for a reduction of \$30,000 plus HST (the "**Parking Return Letter**"). Two of the seven purchasers have accepted the Trustee's offer, and the sales to such purchasers have closed. Closings for the units with two parking spots that received the Parking Return Letter were sent notices that their closings have been delayed indefinitely.

With respect to the unsold units, the Trustee will be requesting that the Court grant it the authority to market and sell the units. The Trustee hopes to be in Court by the end of this month to make such request.

With respect to the plans for any interim parking in the area that is projected to connect with the 155 Park project, there currently are ten temporary spots in that interim parking area. The Trustee continues to consider all available options that will resolve the issue of allocating such spots in the most fair and reasonable manner possible.

With respect to your last question, to date, the Trustee has closed the sale of 64 units. The Trustee is attempting to close the remaining pre-sold units as soon as possible. The Trustee intends to send a letter through counsel to 43 residents, informing them that the Trustee intends to re-allocate the parking units that such residents are currently occupying (16 parking spots on P1, 17 residents that have two parking spots, and the residents currently occupying the 10 interim parking units). The Trustee will be informing the 43 residents of their new parking units and that they must begin parking in their new units by July 28, 2015.

Additionally, the Trustee intends to issue a letter through counsel on July 21, 2015 to 35 residents, informing them that the sales of their units are scheduled to close on August 10, 2015.

We trust that the foregoing addresses the questions in your letters. We ask that you please inform your clients and ask them to keep in mind that the Trustee cannot close transactions if it does not have a second parking spot available to allocate to the unit.

Yours truly,
CHAITONS LLP

Sam Rappos

(computer generated signature)

Sam Rappos
LAWYER

Cc: *Collins Barrow*

Theresa Burbank

From: Sam P. Rappos <samr@chaitons.com>
Sent: July-17-15 9:53 AM
To: Theresa Burbank; Irwin A. Duncan
Cc: Arif N. Dhanani
Subject: RE: 144 Park Street, Waterloo (0037982)
Attachments: DOCS-#3394128-v1-CB_144_-_Letter_to_Duncan_dated_July_17__2015.pdf

Please see the attached letter dated July 17, 2015.

Sam P. Rappos
Lawyer | Chaitons LLP | T: 416.218.1137

From: Theresa Burbank [<mailto:theressa@kwlaw.net>]
Sent: Thursday, July 16, 2015 12:46 PM
To: Sam P. Rappos
Subject: 144 Park Street, Waterloo (0037982)

Mr. Rappos,

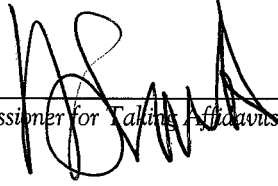
Please find attached our letter to you dated July 16, 2015, together with its enclosures.

Regards,

Theresa Burbank, Sr. Law Clerk | Duncan, Linton LLP | www.kwlaw.net | 45 Erb Street East, Waterloo, ON N2J 4B5
t: (519) 886-3400, Ext 232 | f: (519) 886-8651 | e: theressa@kwlaw.net

This communication may be solicitor/client privileged and contains confidential information intended only for the person(s) to whom it is addressed.

This is Exhibit "W" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

DUNCAN, LINTON LLP
LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
MICHAEL A. VAN BODEGOM • PATRICK J. KRAEMER • DANIEL W. VEINOT
PETER A. HERTZ • THOMAS E. SANDERSON • JERAMIE J.A. GALLICHAN

(+ Denotes Professional Corporation)

P.O. BOX 457
45 ERB STREET EAST
WATERLOO, ONTARIO
N2J 4B5

TEL: 519-886-3340
FAX: 519-886-8651
WEBSITE: www.kwlaw.net
EMAIL: iad@kwlaw.net

July 24, 2015
File No. 0039495

Sam Rappos
CHAITONS LLP
Barristers & Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

VIA EMAIL (samr@chaitons.com)

Dear Mr. Rappos:

Re: 144 Park Street, Waterloo

Thank you for your letter of July 17, 2015.

Unfortunately, the information provided in your letter does not respond to the issues set out in our letter to the Trustee of July 9 and our letter to you of July 16. In particular we are seeking information concerning the following matters:

1. **The Condominium Reserve Fund:** Surely the Trustee has been informed by the property manager about this important issue. The provisions of the *Condominium Act* appear to place responsibility on the Trustee for this fund as trust funds. Is there a reserve fund? How has the money received as interim occupancy fees been used by the Trustee?
2. **Parking Spaces:** We are very interested in the Trustee's recent "solution" to the parking space problem referred to in letters from Harris Schaeffer and the reason for the proposed re-allocation of parking spaces that are currently used by residents under the terms of their interim occupancy. As of 3:00 p.m. on July 21 Karla stated that she knew nothing about this re-allocation process. Also, not all residents have been notified about the parking space re-allocation. We are also advised that the parking

space issues and the proposed re-allocation process have not been discussed with the adhoc Committee.

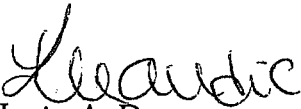
3. **Super-priority Loan:** What was the \$500,000 amount loaned by MarshallZehr used for and when was it borrowed.
4. **Deposits:** Does the Trustee have any information or knowledge about the deposits paid by unit purchasers and whether those deposits will be accounted for by the parties who received them?
5. **Unsold Units:** How will the sale of the 20 unsold units impact on the existing parking space issues?
6. **MarshallZehr Mortgage:** What is the current balance of the MarshallZehr mortgage? We know what it was in February.

Surely it would be helpful and would make unit purchasers feel more comfortable if the Trustee would meet with their representative and discuss all outstanding matters relating to the Project. Such a meeting was requested in March of this year and was again requested in our letters of July 9 and 16. It is important that this trusteeship be administered in a transparent fashion with full disclosure of all relevant information to the stakeholders. If there is a continuing refusal to co-operate, we anticipate receiving instructions to attend in Court on the next Court attendance to advise the Court of the concerns of unit purchasers.

The parking issue has been an obvious concern since at least February this year and yet nothing appears to have been done to resolve the matter except for the Trustee to attempt to intimidate residents to give up their second parking space.

We look forward to a prompt response to our concerns and the Trustee's agreement to meet to discuss all outstanding issues.

Yours very truly,
DUNCAN, LINTON LLP


pr: Irwin A. Duncan
IAD/lm

Lori Mandic

From: Lori Mandic
Sent: July-24-15 10:02 AM
To: 'samr@chaitons.com'
Cc: Theresa Burbank; Irwin A. Duncan
Subject: 144 Park Street, Waterloo
Attachments: Rappos It (Jul-24-15).PDF

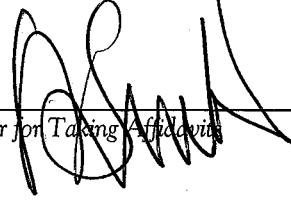
Good Morning,

Attached please find Mr. Duncan's letter of today's date.

Lori Mandic, Law Clerk | Duncan, Linton LLP | www.kwlaw.net | 45 Erb Street East, Waterloo, ON N2J 4B5
t: (519) 886-3400, Ext 246 | f: (519) 886-8651 | e: lori@kwlaw.net

This communication may be solicitor/client privileged and contains confidential information intended only for the person(s) to whom it is addressed.

This is Exhibit "X" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits



REPLY TO: SAM RAPPOS
FILE NO.: 56868
DIRECT: 416-218-1137
FAX: 416-218-1837
EMAIL: samr@chaitons.com

July 28, 2015

VIA EMAIL

Irwin A. Duncan
Duncan, Linton LLP
45 Erb Street East
Waterloo, ON N2J 4B5

Re: 144 Park Ltd.

Dear Mr. Duncan,

We write to you in response to your letter dated July 24, 2015. For ease of reference we have used the numbering and heading scheme from your letter.

1. Reserve Fund: The property manager is responsible for the accounting of the reserve fund for the condominium corporation. The Trustee has requested that the property manager provide an accounting. We will forward to you the information received from the property manager.

With respect to received interim occupancy fees, such amounts were used by the Trustee for operational expenses, repairs and maintenance, and professional expenses incurred during the proceeding. The Trustee anticipates that it will be serving a motion record by Thursday July 30, 2015, which motion is returnable on August 5, 2015. The motion record will contain a statement of receipts and disbursements to July 24, 2015, which includes expenses paid through use of the interim occupancy fees and, as discussed below, the borrowed funds.

2. Parking Spaces: It was necessary to reallocate various parking spot that were being used by particular purchasers, as certain spots are temporary in nature and the Trustee can only convey permanent parking units to purchasers on the closing of any sale transaction. The reallocation will also make parking units available to be allocated to unsold units. Please confirm what residents have not been notified of the reallocation. The Trustee understands that all purchasers whose spots are to be reallocated have received notice.

3. Super-priority Loan: The \$500,000 was borrowed by the Trustee from MarshallZehr on April 7, 2015. As noted above, the funds were used for operating expenses, repairs and maintenance, and professional fees incurred during the proceeding. Greater detail on the Trustee's expenses can be found in its statement of receipts and disbursements, including the notes thereto.



4. **Deposits:** The Trustee has been informed by Harris Sheaffer LLP that all deposits are either still being held in trust by the firm or have been released in accordance with the terms of the agreements of purchase and sale and the *Condominium Act* upon provision of the prescribed security.

5. **Unsold Units:** As you know, the Trustee has written to purchasers that have two parking units allocated to them and has requested that the purchasers agree to return one parking spot to the Trustee. Parking units that are returned to the Trustee will likely be allocated to the unsold units.

6. **MarshallZehr Mortgage:** MarshallZehr has confirmed that, as of July 29, 2015, it is owed \$3,632,658.47 on account of principal, interest, expenses and fees.

The Trustee is of the view that it has answered all of the questions posed to it and has been acting at all times in a transparent and co-operative manner. At no time has the Trustee taken steps to intimidate residents. As previously noted, the Trustee has been placed in a situation where it cannot convey to purchasers parking units that do not exist.

With respect to your request for a meeting, given that you and your client reside in the Kitchener-Waterloo area, and the Trustee and its counsel reside in Toronto, an in person meeting in either place would be costly. The Trustee and its counsel are able to participate in a conference call with you and your client. Please confirm dates and times next week that work for you and your client.

Yours truly,
CHAITONS LLP

A handwritten signature in cursive script that reads "Sam Rappos".

(computer generated signature)

Sam Rappos
LAWYER

Cc: *Collins Barrow*
Harris Sheaffer

Irwin A. Duncan

From: Sam P. Rappos <samr@chaitons.com>
Sent: July-28-15 4:11 PM
To: Lori Mandic
Cc: Theresa Burbank; Irwin A. Duncan; andhanani@collinsbarrow.com; btannenbaum@collinsbarrow.com; akatz@harris-sheaffer.com; mkaroly@harris-sheaffer.com
Subject: RE: 144 Park Street, Waterloo
Attachments: DOCS-3404101-v1-CB_144_-_Letter_to_Duncan_dated_July_28_2015.pdf
Importance: High

Please see the attached letter dated July 28, 2015.

Sam P. Rappos
Lawyer | Chaitons LLP | T: 416.218.1137

From: Lori Mandic [lori@kwlaw.net]
Sent: July 24, 2015 10:01 AM
To: Sam P. Rappos
Cc: Theresa Burbank; Irwin A. Duncan
Subject: 144 Park Street, Waterloo

Good Morning,

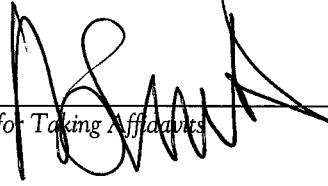
Attached please find Mr. Duncan's letter of today's date.

Lori Mandic, Law Clerk | Duncan, Linton LLP | www.kwlaw.net<<http://www.kwlaw.net/>> | 45 Erb Street East, Waterloo, ON N2J 4B5
t: (519) 886-3400, Ext 246 | f: (519) 886-8651 | e: lori@kwlaw.net<<mailto:lori@kwlaw.net>>

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This is Exhibit "Y" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

Commissioner for Taking Affidavits

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by several loops and a long horizontal stroke extending to the right. The signature is written over a horizontal line.

From: Nancy Fiddler [<mailto:nfiddler@mgbwlaw.com>]

Sent: Friday, July 31, 2015 9:49 AM

To: Karen McNeill

Cc: Nancy Fiddler; Paul Grespan

Subject: RE: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, Units 24, 25, & 76, Level A (19401)

Good morning Karen

Please advise if a closing date has been set for these units. I am leaving today for vacation and won't return until August 17th and need to know if I need to give this file to another clerk before I leave.

Thank you!

Nancy Fiddler, Law Clerk

Direct Line 519.772.7179

nfiddler@mgbwlaw.com

Nancy Fiddler

From: Karen McNeill <kmcneill@harris-sheaffer.com>
Sent: July 31, 2015 9:53 AM
To: Nancy Fiddler
Cc: Paul Grespan
Subject: RE: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, Units 24, 25, & 76, Level A (19401)

Good morning.

No, a final closing date has not yet been established.

Karen McNeill
Law Clerk
kmcneill@harris-sheaffer.com
direct dial 416.250.3695

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

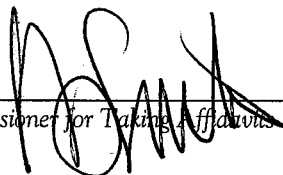
Yonge Corporate Centre
4100 Yonge Street, Suite 610, Toronto, ON M2P 2B5
Telephone (416) 250-5800/Facsimile (416) 250-5300
www.harris-sheaffer.com

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This is Exhibit "Z" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

From: Richard Magnussen [<mailto:rmagnussen@Magnussen.com>]

Sent: Friday, July 31, 2015 10:46 AM

To: Arif N. Dhanani

Subject: FW: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, Units 24, 25, & 76, Level A (19401)

Arif

Hope you are having a good day.

I noticed in your report / Motion July 30/15 you expect all vesting to be complete Aug 10/15.

See below email communication between my lawyer and Harris Schaefer

Appreciate knowing your thoughts

Richard Magnussen

CEO

Magnussen Home

cell 519 580 5194 Canada

cell 336 823 0984 US

office 519 662 3040 #342

Skype magnh-rmagnussen

From: Arif N. Dhanani [<mailto:andhanani@collinsbarrow.com>]
Sent: Friday, July 31, 2015 10:54 AM
To: Richard Magnussen
Subject: RE: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, Units 24, 25, & 76, Level A (19401)

Richard,

Please confirm what you mean by “all vesting to be complete on August 10, 2015”? The report sets out that we will have the right to have executed by the Registrar of the Court vesting orders for all the units, so that we don't have to go back to Court to obtain the Court's authorization to have the Registrar sign vesting orders for units closing after August 10, 2015; however, this does not mean that all units will close on August 10, 2015.

Thank you,

Arif

Arif N. Dhanani, Senior Manager | Collins Barrow Toronto Limited

T: 647-725-0183 F: 416-480-2646 E: andhanani@collinsbarrow.com

11 King St. W., Suite 700, Box 27, Toronto, Ontario, Canada, M5H 4C7

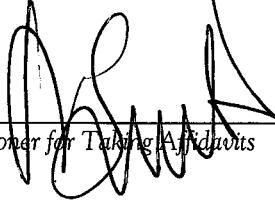
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Information contained in this communication, unless expressly stated otherwise, is not intended or written to be used as tax advice. Any tax advice expressly stated as such herein is based on the facts provided to us either verbally or in writing and on current tax law including judicial and administrative interpretation. Tax law is subject to continual change, at times on a retroactive basis and may result in additional taxes, interest or penalties. Should the facts communicated to us be incorrect or incomplete or should the law or its interpretation change, our advice may be inappropriate. We are not responsible for updating our advice for changes in law or interpretation after the date hereof.

This is Exhibit "AA" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

From: Arif N. Dhanani [mailto:andhanani@collinsbarrow.com]

Sent: Friday, July 31, 2015 11:11 AM

To: Richard Magnussen

Subject: RE: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, Units 24, 25, & 76, Level A (19401)

Richard,

My hope is that we can close everyone's unit as soon as possible. As you know already, we have an issue with the parking. Once we sort the issue out in its entirety, there is no reason to delay anyone's closing.

Thank you,

Arif

Arif N. Dhanani, *Senior Manager* | **Collins Barrow Toronto Limited**

T: 647-725-0183 F: 416-480-2646 E: andhanani@collinsbarrow.com

11 King St. W., Suite 700, Box 27, Toronto, Ontario, Canada, M5H 4C7

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From: Richard Magnussen [mailto:rmagnussen@Magnussen.com]

Sent: Friday, July 31, 2015 11:00 AM

To: Arif N. Dhanani

Subject: RE: Magnussen purchase of 144 Park Street, Waterloo, Unit 1, Level 19, Units 24, 25, & 76, Level A (19401)

Thanks..... Here is a simpler question.... When will I get notice for closing 1901 ?

Richard Magnussen

CEO

Magnussen Home

cell 519 580 5194 Canada

cell 336 823 0984 US

office 519 662 3040 #342

Skype magnh-rmagnussen

This is Exhibit "BB" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

-----Original Message-----

From: Arif N. Dhanani [mailto:andhanani@collinsbarrow.com]

Sent: Tuesday, August 11, 2015 2:42 PM

To: Richard Magnussen

Subject: RE: 50% vested

Richard,

The number of saleable units in the building is 148. We previously closed 67 (as at July 30, 2015) - court materials state 66 units were closed as the 67th unit closed late in the day on July 30th. Although we scheduled the closing of 36 units on August 10, 2015, as a result of counsel for certain purchasers attending in Court on August 5th and raising issues with regard to the reallocation of parking, we had to delay 28 of the 36 closings. To date, 6 of the 8 units scheduled to close yesterday have completed their transactions. There is one unit scheduled to close today and another on August 24th. If all these units close, we will be barely above the 50% mark as at August 24th. We then have a period of time to call the meeting (21 days) and then a period of time to hold it (21 days after calling it).

The Trustee has reserved September 2, 2015 with the Court as a date to address the issues and concerns regarding parking and hear various stakeholders positions on this matter.

At this time, our focus is to address the parking matters and prepare materials for the court attendance on September 2, 2015.

If the required number of units close (74) and after September 2, 2015, we will then turn our attention to scheduling a turnover meeting within the timeframes set out above.

I trust this is helpful.

Regards,

Arif

Arif N. Dhanani, Senior Manager | Collins Barrow Toronto Limited
T: 647-725-0183 F: 416-480-2646 E: andhanani@collinsbarrow.com
11 King St. W., Suite 700, Box 27, Toronto, Ontario, Canada, M5H 4C7

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-----Original Message-----

From: Richard Magnussen [<mailto:rmagnussen@Magnussen.com>]
Sent: Tuesday, August 11, 2015 2:23 PM
To: Arif N. Dhanani
Subject: 50% vested

Arif

Would you be so kind to advise when you will call for turn over to the board.

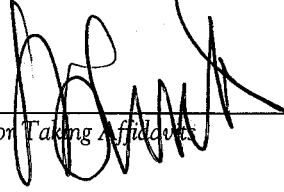
I believe we were very close to the 50 % a few weeks ago. Whit the closing this week I suspect we have passed the 50% requirement . I noticed in your report you anticipated it would be a call for turn over Aug. 10/15.

Will you be initiating this week ?

Thanks in advance for this information.

Richard Magnussen
CEO
Magnussen Home
C 519 580 5194 Canadian
C 336 823 0984 USA
Office 519 662 3040 # 342
Skype magnh-rmagnussen

This is Exhibit "CC" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, appearing to be 'R. Magnussen', written over a horizontal line.

Commissioner for Taking Affidavits

Collins Barrow Toronto Limited
Collins Barrow Place
11 King Street West
Suite 700, PO Box 27
Toronto, Ontario
M5H 4C7 Canada

August 12, 2015

T. 416.480.0160
F. 416.480.2646

www.collinsbarrow.com

TO: PURCHASERS OF CONDOMINIUM UNITS WITH TWO PARKING UNITS

Dears Sirs/Mesdames:

Re: 144 Park Ltd.

As you know, Collins Barrow Toronto Limited was appointed trustee (the "Trustee") of the 144 Park condominium project on January 22, 2015 pursuant to an Order of the Ontario Superior Court of Justice.

Each of you entered into an agreement of purchase and sale with 144 Park Ltd. to purchase a residential unit and two parking units. As you were previously made aware, there are insufficient parking units available to transfer two parking units to you.

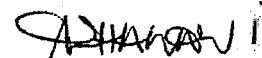
The Trustee has given careful and considerable thought to possible solutions to the parking shortage. The Trustee previously offered you a purchase price reduction of \$33,900 (inclusive of HST) for the return of one parking unit, which offer has not been accepted to date. It has become apparent that there is no circumstance where the Trustee will be in a position to transfer two parking units to you.

The Trustee is bringing a motion on September 2, 2015 to seek the advice and direction of the Court with respect to parking matters. We would like to meet with you to discuss the parking shortage and possible solutions. Details of the date, time and place of the meeting are set out below. We ask that you confirm by return e-mail to andhanani@collinsbarrow.com by 12:00 pm on Monday August 17, 2015 whether you and/or your legal counsel intend to attend the meeting.

Date of Meeting: August 17, 2015 ✓
Time: 7:00 pm
Place: Waterloo Inn
475 King Street North
Waterloo, Ontario, N2J 2Z5
Rosedale Room

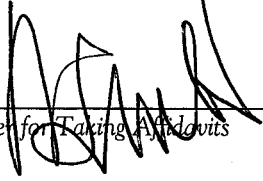
Yours truly,

COLLINS BARROW TORONTO LIMITED
in its capacity as Trustee under the Construction Lien Act
of 144 Park and not in its personal or corporate capacity

Per: 

Arif Dhanani, CPA, CA, CIRP

This is Exhibit "DD" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015

A handwritten signature in black ink, appearing to be 'R. Magnussen', is written over a horizontal line.

Commissioner for Taking Affidavits

DUNCAN, LINTON LLP

LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
MICHAEL A. VAN BODEGOM • PATRICK J. KRAEMER • DANIEL W. VEINOT
PETER A. HERTZ • THOMAS E. SANDERSON • JERAMIE J.A. GALLICHAN

(+ Denotes Professional Corporation)

P.O. BOX 457
45 ERB STREET EAST
WATERLOO, ONTARIO
N2J 4B5

TEL: 519-886-3340
FAX: 519-886-8651
WEBSITE: www.kwlaw.net
EMAIL: iad@kwlaw.net

August 28, 2015
File No. 0039495

Sam Rappos
CHAITONS LLP
Barristers & Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

VIA EMAIL (samr@chaitons.com)

Dear Mr. Rappos:

**Re: 144 Park Street, Waterloo
Magnussen Purchase Unit 01 Level 19, two (2) Parking Units
and one (1) Storage Unit**

We are solicitors for Richard and Marilyn Magnussen. The Magnussens entered into an Agreement of Purchase and Sale dated June 8, 2009, wherein they agreed to purchase Unit PH 01 together with two parking spaces and a storage locker for \$901,500 plus GST. Pursuant to that Agreement the Magnussens have paid \$225,375 in deposits. A letter from Harris, Scheaffer LLP, dated August 19, 2014, which required the Magnussens to enter into interim occupancy, confirmed the legal description for the premises being purchased by the Magnussens as Unit 1, Level 19, Unit 24 Level A, Unit 25 Level A, Unit 76 Level A, WSCP TBR, Suite GPH1.

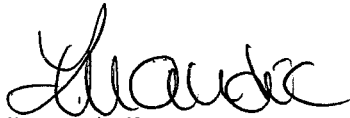
The Magnussens have also contracted for certain upgrades to their unit, in relation to which they have paid further amounts as deposits. They entered into interim occupancy of their unit on or about September 22, 2014, and have dutifully paid their monthly interim occupancy fees in the amount of \$3,542.95 as required by the Agreement.

The Magnussens are ready, willing and able to complete their purchase in accordance with the terms of their Agreement and are at a loss to understand why the closing of their

transaction has been delayed notwithstanding repeated assurances that the closing would take place promptly after registration of the condominium. Registration of the condominium took place on May 25, 2015. To be clear, the Magnussens are not prepared to "give up" either of their parking spaces. They require a transfer of title to them of the two parking spaces that have been assigned to them and that they have been occupying since they took interim occupancy.

We trust that the Magnussen's position is clear and we look forward to receiving confirmation of an early closing date for this transaction.

Yours very truly,
DUNCAN, LINTON LLP



pr. Irwin A. Duncan
IAD/lm

c: Richard and Marilyn Magnussen

Lori Mandic

From: Lori Mandic
Sent: August-28-15 11:47 AM
To: samr@chaitons.com
Cc: Theresa Burbank; Irwin A. Duncan
Subject: 144 Park
Attachments: Rappos lt (Aug-27-15).PDF
should be "28"

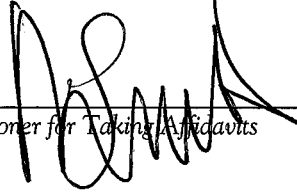
Mr. Rappos,

Attached please find Mr. Duncan's letter of today's date.

Lori Mandic, Law Clerk | Duncan, Linton LLP | www.kwlaw.net | 45 Erb Street East, Waterloo, ON N2J 4B5
t: (519) 886-3400, Ext 246 | f: (519) 886-8651 | e: lori@kwlaw.net

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This is Exhibit "EE" referred to in the Affidavit of
Richard Magnussen sworn October 14, 2015



Commissioner for Taking Affidavits

Lori Mandic

From: Sam P. Rappos <samr@chaitons.com>
Sent: August-28-15 12:03 PM
To: Irwin A. Duncan
Cc: Theresa Burbank; Ari Katz; Arif N. Dhanani; Mark Karoly; Lori Mandic
Subject: RE: 144 Park

Thank you for the letter. We will update the service list to reflect that you are counsel to the Magnussens.

As we have informed you on multiple occasions previously, the Trustee is not in a position to complete sale transactions with two parking units. The motion on October 5 will deal with parking matters such as this one.

Regards,
Sam

Sam P. Rappos
Lawyer | Chaitons LLP | T: 416.218.1137

From: Lori Mandic [<mailto:lori@kwlaw.net>]
Sent: Friday, August 28, 2015 11:47 AM
To: Sam P. Rappos
Cc: Theresa Burbank; Irwin A. Duncan
Subject: 144 Park

Mr. Rappos,

Attached please find Mr. Duncan's letter of today's date.

Lori Mandic, Law Clerk | Duncan, Linton LLP | www.kwlaw.net | 45 Erb Street East, Waterloo, ON N2J 4B5
t: (519) 886-3400, Ext 246 | f: (519) 886-8651 | e: lori@kwlaw.net

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N THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD. FOR THE APOINTMENT OF A TRUSTEE
UNDER SECTION 68(1) OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

Court File No. CV15-10843-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF RICHARD MAGNUSSEN

DUNCAN, LINTON LLP

Barristers & Solicitors

P.O. Box 457

45 Erb Street East

Waterloo, Ontario

N2J 4B5

Irwin A. Duncan (LSUC #12857G)

e: iad@kwlaw.net

Peter A. Hertz (LSUC #56391N)

e: phertz@kwlaw.net

t: (519) 886-3340

f: (519) 886-8651

Lawyers for Certain Unit Purchasers

TAB 2

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *CONSTRUCTION LIEN ACT*,
R.S.O. 1990, c. C.30, AS AMENDED

AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD.
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

AFFIDAVIT

I, AJ (Achim) Mueller, of the City of Waterloo, in the Regional Municipality, MAKE
OATH AND SAY:

1. I am a unit purchaser and resident of 144 Park Street, Waterloo, Ontario, and, as such, have knowledge of the matters contained in this Affidavit.
2. The matters deposed to herein are within my personal knowledge except where otherwise indicated. Where I indicate that I have obtained information from other sources, I believe that information to be true. Copies of documents attached hereto as exhibits are true copies of the documents so identified.

Background

Unit 1701

3. My wife Kerry and I entered into an Agreement of Purchase and Sale with 144 Park Ltd. on March 6, 2013 (the "Agreement"), to purchase Suite No. 1701 and a parking unit at a purchase price of \$494,990. A copy of that Agreement is annexed as **Exhibit "A"**.

4. We intended to purchase the 144 property for long-term ownership as our future retirement home. We sold our country property in October of 2013 in anticipation of completing this purchase.

5. Our decision to purchase at 144 Park was based on a desire to live in a high-quality condominium residence, close to the amenities of downtown Waterloo, without the concerns of property maintenance and upkeep associated with freehold ownership. We also felt that it would be a sound, long-term investment.

6. At the time we entered into the Agreement, we advised the Senior Sales Manager, Glen Buttigieg, that we required two parking units for our residential unit. We were assured that as numerous units had been sold with two parking units, we would be able to obtain an additional unit through an assignment at a later date.

7. On or about October 16, 2014, we informed Buttigieg and Jonathon Mueller (Mady's Vice-President of Marketing and Sales) that an additional parking unit was available. Attached as **Exhibit "B"** is a copy of my email to Mueller and his reply email to me of same day setting out arrangements for us to acquire that additional parking unit as part of our purchase.

8. On November 4, 2014, we entered into an Amendment to our Agreement prepared by Mueller. A copy of the Amendment is annexed as **Exhibit "C"**. The Amendment replaced the first paragraph of our Agreement with a similar paragraph except that it provided that we would be purchasing two parking units. The purchase price was increased

from \$494,990 to \$528,890. We also paid an additional sum of \$6,100 directly to the unit purchaser who had agreed to make one of his two parking units available to us.

9. My wife and I each have our own car, and two parking spaces are required to accommodate our lifestyle needs. We each need to travel separately to different locations and two vehicles are therefore a necessity.

10. During the course of construction of the Project we arranged for certain upgrades and improvements for our residential unit, to be performed by the Vendor. The cost of those improvements was \$52,729.19. On September 27, 2013, we paid \$25,226.69; a further \$1,137.90 on November 20, 2013 and the balance of \$26,364.60 on Interim Closing.

11. We paid the following deposits on account of the purchase price:

- (a) \$5,000 - upon submitting the Agreement;
- (b) \$19,750 - 15 days after execution of the Agreement;
- (c) \$24,750 - 90 days after execution of the Agreement; and
- (d) \$24,750 - 180 days after execution of the Agreement.

The balance of the purchase price is payable upon Title Transfer date.

12. In accordance with the Agreement, we entered into interim occupancy of our residential unit and two parking units on or about July 25, 2014. At that time we paid a further deposit on account of the purchase price of \$26,364.60. At that date, our residential

unit had numerous deficiencies and incomplete work. It was not suitable for occupancy until December 2014.

13. Prior to the Interim Occupancy Date, the solicitors for the Vendor provided us with copies of the following documents:

- (a) Budget Statement for First Year of Operations;
- (b) Disclosure Statement;
- (c) Declaration;
- (d) By-Law No. 1; and,
- (e) Management Agreement.

14. We signed and delivered an Occupancy Acknowledgment and delivered a cheque for prorated occupancy fees of \$449.81, seven postdated cheques for \$1,992.01 each for monthly occupancy rent and a Direction re Title a copy of which is attached, authorizing title to our units to be put in our names, as joint tenants. A copy of the Direction re Title is annexed as **Exhibits "D"**.

15. The Interim Closing documentation all refer to our residential unit number as Unit 1, Level 17 and one parking unit as Unit 15, Level 3 and Unit 47, Level 3. Attached as **Exhibit "E"** is a copy of the Interim Closing Memorandum, Interim Statement of Adjustments and Key Release. The second parking unit was allocated to us on November 4, 2014.

16. Once in occupancy, we moved our furniture and personal belongings into our unit and completed all required decorating. We incurred costs of approximately \$21,796.30 relating to the move and various costs for decorating and miscellaneous improvements.

17. Since taking interim occupancy we have paid interim occupancy fees in the amount of \$1,992.01 per month up to and including June, 2015.

Units 1201, A63 and A64

18. On November 5, 2014, we entered into an assignment Agreement (the "Assignment") with Oliver Romaniak ("Romaniuk", Leah Shoshana Weller ("Weller") as Assignors and 144 Park Ltd. as Vendor wherein the Assignors assigned an Agreement of Purchase and Sale dated February 14, 2010 (the "Assigned Agreement") to us as Assignees, with the consent of 144 Park Ltd. A copy of the Assignment is annexed as **Exhibit "F"** and a copy of the Agreement is annexed as **Exhibit "G"**. The Assignment Agreement was prepared by Mady Development Corporation.

19. We purchased this residential unit as an investment. Pursuant to our arrangements with the Assignors we agreed to pay them \$48,510 and, as well, assumed their obligations pursuant to the Assigned Agreement. We viewed that amount as the increase in value of the unit from the time that the Assigned Agreement was entered into by Romaniuk, including the additional value of two parking units.

20. The Assigned Agreement was entered into by Romaniuk and 144 Park Ltd. on February 14, 2010. It provides for the purchase of Unit 01 Level No. 12 (Suite 1201) and two parking units.

21. The Assigned Agreement provides for payment of the following deposits on account of the purchase price:

- (a) A \$5,000 deposit upon signing;
- (b) \$12,900 21 days after execution; and,
- (c) \$17,900 120 days after execution.

The balance of the purchase price is payable on the Title Transfer Date. At the time of the Assignment Agreement, we paid \$35,800 to Romaniuk.

22. Romaniuk paid the sum of \$2,500 to 144 Park Ltd. as a transfer fee shortly after execution of the Assignment.

23. I am advised by Romaniuk that the Assignors entered into interim occupancy of residential unit 1201 and parking units A63 and A64 on or about June 3, 2014. Attached as **Exhibit "H"** is a copy of the Key Release he received for parking units A63 and A64.

24. We took occupancy of residential unit 1201 and the two parking units (A63 and A64) from Romaniuk and Weller on or about December 1, 2014.

25. When we entered into interim occupancy of our Unit 1701, construction of the building was not completed. Our unit required certain completion work and the correction

of deficiencies. Also, work was still being performed on the common elements of the Project. Twenty of the units in the building remained unsold and had no interior finishes.

Trusteeship

26. I learned about the appointment of Collins, Barrow Limited as Trustee on or about January 23, 2015.

27. Our first concern was that the common elements of the Project be completed and that all steps required to attain registration of the Project as a condominium were continued so that we could complete our purchases.

28. Soon after the appointment of the Trustee, I had dealings with Arif Dhanani (“Dhanani”) and Karla Roelofs (“Karla”) on behalf of the Trustee. Attached as **Exhibit “I”** is a copy of an email exchange between me, my solicitor, Dhanani, the Trustee’s solicitor and my report to other members of the ad hoc committee concerning the role of the Trustee. The email from Dhanani dated February 20, 2015 includes the following:

“As set out in the Order, a copy of which is attached, the Trustee’s mandate generally includes operating the building, registering the condominium declaration and final Plan of Condominium and closing the 129 pre-sold units.”...

“The Trustee is focussing its attention on having the condominium registered. Once the condominium is registered, the Condominium Corporation will be formed and will be in a position to address the items addressed in your email. The Trustee will, after receiving the proceeds from the closing of the

sales of the condominiums then be in a position to address the claims of 144 Park's various constituents, including creditors and residents."

29. I received numerous assurances from Karla that the Trustee was committed to early completion of all outstanding work and that they were working diligently to attain condominium registration.

30. It was stated specifically by Karla that our purchase transaction and all of the other pending purchases would be completed immediately after the condominium was registered.

31. I became a member of an informal *ad hoc* committee (the "Committee") of unit purchasers formed to communicate on behalf of the unit purchasers with the Trustee.

32. Karla told me that the Trustee instructed her to give David Marshall a master key to the building, and I saw real estate agents in the building regularly.

Post May 1, 2015

33. On June 1, 2015, we received an email notice from Karla, the Customer Service Team Leader, addressed to the residents of the Project confirming registration of the condominium and stating that the Trustee and its consultants were working hard to finalize the closing arrangements for the individual suites and that they should expect their lawyers to receive closing packages from the solicitors for the Trustee. She also indicated that there would be expedited closing dates for purchasers who were paying cash. Attached as **Exhibit "J"** is a copy of the email from Karla dated June 1, 2015.

34. I responded to Karla's email by email dated June 1, 2015, advising her that we were prepared to close on both our purchases as soon as we returned to Canada on June 15, 2015. Attached as **Exhibit "K"** is a copy of my June 1, 2015 email.

35. On June 5, 2015, we received a letter from Collins Barrow confirming that the condominium was now registered and that it was in a position to "*start closing units*". The letter went on to comment that the parking units had been "*over allocated*". The Trustee then provided two options for unit purchasers who had contracted to purchase two parking units:

- (a) The Trustee would "buy-back" one unit and reduce the purchase price by \$20,000;
- (b) Retain both parking units by accepting temporary parking at another project (Bauer Lofts) until the 155 Uptown Project was completed at which time permanent parking privileges would be granted at that Project. The Vendor would also agree to reduce the purchase price by \$7,000.

A copy of that letter is annexed as **Exhibit "L"**.

36. I responded to Karla by email dated June 9, 2015 asking for clarification and if the offer was looking for "volunteers" or if the Trustee was imposing a material change to our contracts. Attached as **Exhibit "M"** is a true copy of that email. We received no answer to that email.

37. I was advised by our solicitors, Madorin Snyder, that they received a letter from the solicitors for the Trustee dated June 16, 2015, (a copy of which is attached as **Exhibit "N"**), advising of the registration of the condominium documents on May 25, 2015, and that the

Order appointing the Trustee had been registered on January 23, 2015. The letter went on to state:

“Unfortunately there are not sufficient parking units available to be sold in this project. Accordingly, the Court Appointed Trustee is requesting that the Purchaser(s) agree to amend the Agreement of Purchase and Sale to delete the second Parking Unit and correspondingly reduce the purchase price by the amount of \$33,900 (inclusive of HST). If your client is agreeable to same, please sign and return a copy of this letter to us by no later than June 22, 2015, and we will then be in a position to set a final closing date. If we do not hear from you by that time or your client is not agreeable to the Amendment, the Trustee may seek a Court Order terminating the Agreement of Purchase and Sale.”

38. I was shocked by the letter. At no time was I ever told by the Trustee or anyone else that we were required to give up a parking space or that the Trustee could terminate our Agreement. In my conversations with Karla. I had received repeated assurances that our purchase transaction would be completed shortly after registration of the condominium. In one of my conversations with Karla, she stated that *“I will resign before I ask you for one more occupancy cheque.”*

39. On July 6, our solicitors informed us that they had received another letter from the solicitors for the Trustee wherein they provided further information about the parking unit issue, asked that we reconsider our refusal to give up a parking unit and set a new deadline to respond of July 10, 2015. Attached as **Exhibit “O”** is a copy of a letter from Harris Sheaffer dated July 6, 2015.

40. On July 9, Duncan, Linton, solicitors for a number of unit purchasers, sent a letter to the Trustee's solicitor setting out a number of concerns and questions concerning the Trustee's actions concerning the parking unit issues. Attached as **Exhibit "P"** is a true copy of that letter.

41. By letter dated July 10, 2015, our solicitors asked the solicitors for the Vendor if we could relinquish Unit 1201 and both parking spaces in return for "a full refund of all monies paid to date". A copy of that letter is annexed as **Exhibit "Q"**. The solicitors for the Vendor replied by email of July 22, 2015, wherein they rejected that request and stated that the Trustee "*cannot accept your client's offer to be released from their obligations under the Agreement of Purchase and Sale*". A copy of that email is annexed as **Exhibit "R"**.

42. Our solicitors informed us that they received another letter from the solicitors for the Vendors dated July 21, 2015, stating that "*a potential solution has been found that balances the many stakeholder interests*" and that, as a result, "*a re-allocation of parking units has taken place*". The letter advises that we were "re-allocated" parking unit 32, Level 1. A copy of that letter is annexed as **Exhibit "S"**. We also received notice with respect to our second unit (1701) that we were re-allocated parking unit 14, Level 1.

43. Our solicitor responded to that letter by letter dated July 23, 2015, wherein he asked if the re-allocated parking unit would be deeded on closing. A copy of that letter is annexed as **Exhibit "T"**.

44. The solicitors for the Vendor responded by email the same day advising that they cannot confirm that the re-allocated parking unit would be deeded and threatening to tow vehicles that were not moved from parking units that were being “re-allocated”. A copy of that email is annexed as **Exhibit “U”**.

45. Our solicitors responded by email also dated July 23, requesting that they advise which provision of our Agreement or the *Condominium Act* the Trustee was relying on as a basis for unilaterally taking away parking units that were contracted for. A copy of that email is annexed as **Exhibit “V”**.

46. Our solicitor sent a further email to the solicitors for the Trustee on August 4, 2015, asking upon what basis the Trustee is purporting to re-allocate parking units. The solicitor for the Trustee responded by email the same day indicating that it was relying on the terms of the Agreement and the Appointment Order. A copy of that email is annexed as **Exhibit “W”**.

47. The Trustee sent a letter to all purchasers of condominium units with two parking units dated August 12, 2015, advising that there are insufficient parking units to transfer two parking units to those purchasers. After referring to its prior letter offering \$33,900 to purchasers who were prepared to give up a parking unit, he commented:

“It has become apparent that there is no circumstance where the Trustee will be a position to transfer two parking units to you.”

A copy of that letter is attached as **Exhibit “X”**.

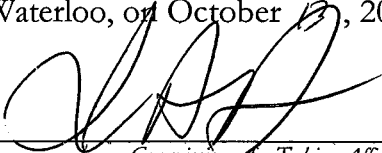
48. When my wife and I reviewed the Trustee's Motion Record, we gave serious consideration to the Trustee's proposal that unit purchasers could rent a parking space on a temporary basis and eventually be able to purchase a permanent space when the 155 Uptown Project was completed. I telephoned the solicitor for the Trustee on September 28, 2015, and asked for the particular terms of that offer. Mr. Rappos responded that the Trustee needed to prepare them and that we would have an answer the morning of September 29. To date we have heard nothing from the Trustee or its solicitors concerning this matter.

49. I am very concerned that the loss of a parking unit would have reduced the value of our condominium. I also do not consider the Trustee's offer of a \$33,900 reduction in the purchaser price for our residential unit to be adequate compensation for the loss of a parking unit, let alone compensation for the resulting reduction in value of our residential unit.

50. The loss of a parking space would significantly affect our use and enjoyment of our condominium unit. We would have no place to park our second vehicle. The 144 Park Project has no visitor parking spaces and storage of, and access to, our second vehicle would be very problematic.

I make this Affidavit to provide information relating the purchase of my condominium unit and the impact of the Trustee's proposals on me and my family.

SWORN BEFORE ME at the City of Waterloo, in the Regional Municipality of Waterloo, on October 13, 2015.



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



AJ MUELLER

This is Exhibit "A" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

AGREEMENT OF PURCHASE AND SALE

The undersigned Achim Mueller, Kerry J. Mueller (collectively, the "Purchaser"), hereby agree with **144 PARK LTD.** (the "Vendor"), to purchase the above-noted unit, as outlined for identification purposes only on the sketch attached hereto as Schedule "A", together with one (1) Parking Unit(s) and one (1) Locker Unit(s), all of which shall be allocated by the Vendor in its sole discretion being (a) proposed unit(s) in the Condominium, to be registered against these lands and premises situate on the north east corner of Allen Street and Park Street in the City of Waterloo, and which is proposed to be municipally known as 144 Park Street, Waterloo, Ontario (hereinafter called the "Property"), together with an undivided interest in the common elements appurtenant to such unit(s) and the exclusive use of those parts of the common elements attaching to such unit(s), as set out in the proposed Declaration (collectively, the "Unit") on the following terms and conditions:

The purchase price of the Unit (the "Purchase Price") is Four Hundred Ninety Four Thousand Nine Hundred Ninety (\$494,990.00) DOLLARS in lawful money of Canada, payable as follows:

- (a) to Harris, Sheaffer LLP, in Trust, (the "Vendor's Solicitors" or "Escrow Agent" or "Trustee") in the following amounts at the following times, by cheque or bank draft, as deposits pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on the Occupancy Date:
 - (i) the sum of FIVE THOUSAND (\$5,000.00) Dollars submitted with this Agreement;
 - (ii) the sum of Nineteen Thousand Seven Hundred Fifty (\$19,750.00) Dollars submitted with this Agreement and post-dated Fifteen (15) days following the date of execution of this Agreement by the Purchaser, and which sum together with the deposit payable under Section 1(a)(i) above represents 5% of the Purchase Price;
 - (iii) the sum of Twenty Four Thousand Seven Hundred Fifty (\$24,750.00) Dollars submitted with this Agreement and post-dated for Ninety (90) days following the date of execution of this Agreement by the Purchaser, being 5% of the Purchase Price;
 - (iv) the sum of Twenty Four Thousand Seven Hundred Fifty (\$24,750.00) Dollars submitted with this Agreement and post-dated One Hundred Eighty (180) days following the date of execution of this Agreement by the Purchaser, being 5% of the Purchase Price;
 - (b) the sum of ZERO (\$0.00) Dollars by certified cheque or bank draft to the Vendor's Solicitors on the Occupancy Date, being 5% of the Purchase Price;
 - (c) the balance of the Purchase Price by certified cheque on the Title Transfer Date to the Vendor or as the Vendor may direct, subject to the adjustments hereinafter set forth;
 - (d) the Purchaser agrees to pay the sum as hereinbefore set out in paragraph 1(a) as a deposit by cheque payable to the Escrow Agent with such last-mentioned party to hold such funds in trust as the escrow agent acting for and on behalf of TWC under the provisions of a Deposit Trust Agreement ("DTA") with respect to this proposed condominium on the express understanding and agreement that as soon as prescribed security for the said deposit money has been provided in accordance with Section 81 of the Act, 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).
1. (a) The Purchaser shall occupy the Unit on the First Tentative Occupancy Date (as defined in the Statement of Critical Dates being part of the Tarion Addendum as hereinafter defined), or such extended or accelerated date that the Unit is substantially completed by the Vendor for occupancy by the Purchaser in accordance with the terms of this Agreement including, without limitation, the Tarion Addendum (the "Occupancy Date");
- (b) The transfer of title to the Unit shall be completed on the later of the Occupancy Date or a date established by the Vendor in accordance with Paragraph 14 hereof (the "Title Transfer Date");
- (c) The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is the address set out in the Tarion Addendum;
- (d) Notwithstanding anything contained in this Agreement (or in any schedules annexed hereto) to the contrary, it is expressly understood and agreed that if the Purchaser has not executed and delivered to the Vendor or its sales representative an acknowledgement of receipt of both the Vendor's disclosure statement and a copy of this Agreement duly executed by both parties hereto, within fifteen (15) days from the date of the Purchaser's execution of this Agreement as set out below, then the Purchaser shall be deemed to be in default hereunder and the Vendor shall have the unilateral right to terminate the Agreement at any time thereafter upon delivering written notice confirming such termination to the Purchaser, whereupon the Purchaser's initial deposit cheque shall be forthwith returned to the Purchaser by or on behalf of the Vendor.

The following Schedules of this Agreement, if attached hereto, shall form a part of this Agreement. If there is a form of Acknowledgement attached hereto same shall form part of this Agreement and shall be executed by the Purchaser and delivered to the Vendor on the Closing Date. The Purchaser acknowledges that he has read all Sections and Schedules of this Agreement and the form of Acknowledgement, if any:

- Schedule "A" - Unit Plan/Sketch
- Schedule "B" - Features & Finishes
- Schedule "C" - Occupancy Licence
- Schedule "D" - Warning Provisions
- Schedule "E" - Receipt Confirmation
- Schedule being the Tarion Warranty Corporation Statement of Critical Dates and Addendum to Agreement of Purchase and Sale (collectively the "Tarion Addendum") and such other Schedules annexed hereto and specified as Schedule "_____".

DATED, signed, sealed and delivered this 06 day of March, 2013

SIGNED, SEALED AND DELIVERED in the presence of
S. Buttigieg
WITNESS
(as to all Purchaser's signatures, if more than one purchaser)

Achim Mueller
PURCHASER Achim Mueller D.O.B. 1955/11/07

Kerry J. Mueller
PURCHASER Kerry J. Mueller D.O.B. 1957/02/22

PURCHASER'S SOLICITOR: _____
Address: _____
Telephone: _____ Facsimile: _____

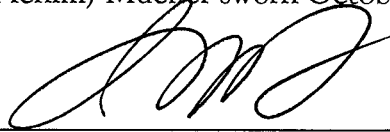
The undersigned accepts the above offer and agrees to complete this transaction in accordance with the terms thereof.

DATED, signed, sealed and delivered, this 07 day of March, 2013

Vendor's Solicitors:
HARRIS, SHEAFFER LLP
Suite 610 - 4100 Yonge Street
Toronto, Ontario M2P 3B5
Attn: Mark L. KAROLY
Telephone: (416) 250-5800 Fax: (416) 250-5300

144 PARK LTD.
Per [Signature]
Authorized Signing Officer
I have the authority to bind the Corporation.

This is Exhibit "B" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

From: Jonathan A. Mueller
Sent: Thursday, October 16, 2014 6:59 PM
To: mueller.ajm@gmail.com; Glen Buttigieg
Cc: Kerry Mueller; Joshua Lee
Subject: RE: Parking spot purchase

Good evening AJ,

I am working on sorting out the paperwork to make this happen...it is a bit of an odd situation, but I think I have a simple solution that I sent to my lawyer to review before we prepare the paperwork. Essentially, we will delete the second parking space from Brian's agreement and adjust his purchase price accordingly and we will add the second price to your agreement and adjust the purchase price accordingly. Whatever business arrangement you have worked out with Brian is really between yourselves and Brian...as long as 144 Park Ltd. receives the money for the value of the space ☺

I will be in touch as soon as I hear back from my lawyer...likely tomorrow or Monday.

Regards,
Jonathan

Jonathan A. Mueller
Vice President, Sales and Marketing
MADY Development Corporation
tel: 905.944.0907 x106
fax: 905.944.0916

Celebrating 40 Years of Building & Development
www.MADY.com



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From: mueller.ajm@gmail.com [<mailto:mueller.ajm@gmail.com>]
Sent: Thursday, October 16, 2014 3:39 AM
To: Glen Buttigieg; Jonathan A. Mueller
Cc: Kerry Mueller
Subject: Re: Parking spot purchase

Hi Glen, Johnathan,

You have probably seen the email exchange from Brian O'Heron regarding him assigning a spot to us. What do we have to do to get the ball in motion for the assignment? Brian us expecting us to follow through on the assignment.

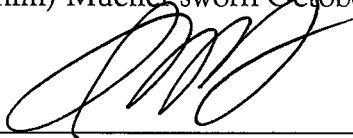
Ideally it would be great if all the assignment papers were ready for Brian and us to sign by Nov 4th. You should have all our information from the condo purchases. We could come in around hen and sign our part. The spot we are talking about is #21 on the 3rd floor.

Kerry and I are in China right now until early November and communication will be a bit tricky at times but will check our email daily. Please reply all.

Many thanks,
AJ

AJ Mueller
519-503-7900

This is Exhibit "C" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

**144 Park Ltd.
AMENDMENT TO THE
AGREEMENT OF PURCHASE AND SALE**

BETWEEN: 144 Park Ltd. (the "Vendor") and Achim Mueller and Kerry E. Mueller (the "Purchaser")

UNIT (Legal#) 01, Level 17, Suite 1701

It is hereby understood and agreed between the Vendor and the Purchaser that the following changes(s) shall be made to the above-mentioned Agreement of Purchase and Sale, and except for such change(s) noted below, all other terms and conditions of the Agreement shall remain as stated therein, and time shall continue to be of the essence.

DELETE:

The undersigned, Achim Mueller and Kerry E. Mueller (collectively, the "Purchaser"), hereby agrees with **144 PARK LTD.** (the "Vendor") to purchase the above-noted unit, as outlined for identification purposes only on the sketch attached hereto as Schedule "A", together with one (1) Parking Unit(s) and one (1) Locker Unit(s), all of which shall be allocated by the Vendor in its sole discretion being (a) proposed unit(s) in the Condominium, to be registered against those lands and premises situate on the north east corner of Allen Street and Park Street in the City of Waterloo, and which is proposed to be municipally known as 144 Park Street, Waterloo, Ontario (hereinafter called the "Property"), together with an undivided interest in the common elements appurtenant to such unit(s) and the exclusive use of those parts of the common elements attaching to such unit(s), as set out in the proposed Declaration (collectively, the "Unit") on the following terms and conditions:

The purchase price of the Unit (the "Purchase Price") is **FOUR HUNDRED NINETY FOUR THOUSAND NINE HUNDRED NINETY (\$494,990.00)** DOLLARS in lawful money of Canada, payable as follows:

INSERT:

The undersigned, Achim Mueller and Kerry E. Mueller (collectively, the "Purchaser"), hereby agrees with **144 PARK LTD.** (the "Vendor") to purchase the above-noted unit, as outlined for identification purposes only on the sketch attached hereto as Schedule "A", together with two (2) Parking Unit(s) and one (1) Locker Unit(s), all of which shall be allocated by the Vendor in its sole discretion being (a) proposed unit(s) in the Condominium, to be registered against those lands and premises situate on the north east corner of Allen Street and Park Street in the City of Waterloo, and which is proposed to be municipally known as 144 Park Street, Waterloo, Ontario (hereinafter called the "Property"), together with an undivided interest in the common elements appurtenant to such unit(s) and the exclusive use of those parts of the common elements attaching to such unit(s), as set out in the proposed Declaration (collectively, the "Unit") on the following terms and conditions:

The purchase price of the Unit (the "Purchase Price") is **FIVE HUNDRED TWENTY EIGHT THOUSAND EIGHT HUNDRED NINETY (\$528,890.00)** DOLLARS in lawful money of Canada, payable as follows:

DATED at Waterloo this 4 day of November, 2014

IN WITNESS whereof the parties hereto have affixed their hands and seals.

SIGNED, SEALED AND DELIVERED
In the presence of

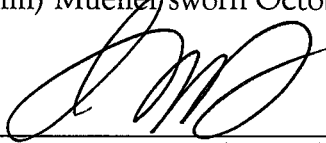
)
)
) Achim Mueller
)
) Kerry E. Mueller
)

DATED at Waterloo this 4 day of November, 2014

144 Park Ltd.

Per:
Authorized Signing Officer
I have the authority to bind the Corporation.
S. Buttigieg

This is Exhibit "D" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

DIRECTION RE TITLE

TO: 144 Park Ltd.
AND TO: Harris, Sheaffer LLP
its solicitors herein
RE: 144 Park Ltd. sale to Achim Mueller and Kerry Mueller
Unit 1, Level 17, Unit 15, Level 3, Unit 47, Level 3, WSCP TBR
Suite 1701, 144 Park Street, Waterloo, Ontario N2L 0B6

YOU ARE HEREBY authorized and directed to engross the Transfer/Deed of Land in the above noted transaction as follows:


<i>Transferee:</i> (Name(s))	<i>Social Insurance Number</i> (Required Information)	<i>Date of Birth</i> (yyyy/month/dd)
MUELLER, Kerry Elizabeth	<u>459 611 844</u>	1957/02/22
MUELLER, Achim Heinz Juergen	<u>458 789 013</u>	1955/11/07


Spousal Status: We are spouses of one another
(if applicable)

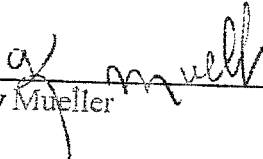
Address for Service: 1701-144 Park Street, Waterloo, ON N2L 0B6

and for so doing, let this be your good, sufficient and irrevocable authority and indemnity.

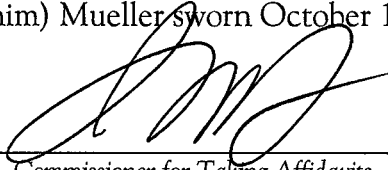
Dated at the City of Kitchener, in the Province of Ontario, this 22nd day of July, 2014.


Witness: (as to all signatures, if applicable)


Achim Mueller


Kerry Mueller

This is Exhibit "E" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

INTERIM CLOSING MEMORANDUM

RE: 144 Park Ltd. sale to Achim Mueller and Kerry Mueller
Unit 1, Level 17, Unit 15, Level 3, Unit 47, Level 3, WSCP TBR
Suite 1701, 144 Park Street, Waterloo, Ontario N2L 0B6
Taron Builder Registration Number: 39278
Unit Enrolment Number: H1816773
Closing Date: July 25, 2014

Items to be delivered by Purchaser to the Vendor's Solicitor on Closing Date:

1. Two executed copies of the Occupancy Acknowledgment (pursuant to Paragraph 23 and Schedule C of the Agreement of Purchase on Sale). Please ensure that the Occupancy/Acknowledgment is witnessed.
2. **Cheques:**
 - a) Certified cheque payable to Harris, Sheaffer LLP, In Trust, in the amount of \$26,364.60 representing the unadjusted balance due on the Closing Date, in accordance with Paragraph 1 of the Agreement. Draft
\$26,319.41
 - b) Certified cheque payable to Harris, Sheaffer LLP, In Trust, in the amount of \$449.81 representing the Occupancy Fee from July 25, 2014 to the day prior to the first day of the following month.
 - c) 7 post-dated cheques each dated the 1st of the month in the sum of \$1,992.01 commencing August 1, 2014 payable to 144 Park Ltd.
3. Two executed copies of the Direction re Title indicating the manner in which your client will take title, providing the full name, birth date, social insurance number and address for service in the event your client will not be residing at the above-noted property. If the Purchaser is requesting title to be taken differently than what is contemplated in the Agreement of Purchase and Sale, please notify our office in writing on an immediate basis.
4. A clear execution certificate to be dated no earlier than three days prior to the Closing Date, against the name(s) in which title to the Unit is to be taken. If the filing of any executions with the Local Land Registrar shall prevent a clear execution certificate being available on the Closing Date, we shall require, by way of Statutory Declaration, confirmation from your client that he/she is not the execution debtor, where the stated amount of the execution is less than \$50,000.00 and by way of Statutory Declaration from the purchaser's solicitor, where the execution is in excess of \$50,000.00, confirming that the execution does not affect the purchaser. In addition, when any execution is registered in excess of \$50,000.00 and prevents the issuance of a clear execution certificate, we shall require confirmation from the execution creditor or its solicitors that your client is not one and the same person as the execution debtor (as required pursuant to the Agreement of Purchase and Sale).

NOTES:

1. Please note it is the policy of this firm that funds being delivered to us by certified cheque for a closing must be from the purchaser's solicitor's trust account and not directly from a purchaser or any other person. No bank drafts are permitted.
2. Where documentation is being executed pursuant to a Power of Attorney, we will require a Notarial copy of the Power of Attorney, together with a Statutory Declaration from the Solicitor, that the Power of Attorney has not been revoked and remains in full force and effect.

Ch #	323	8/1/2014	\$1992.01
Ch #	324	9/1/2014	1992.01
Ch #	325	10/1/2014	1992.01
Ch #	326	11/1/2014	1992.01
Ch #	327	12/1/2014	1992.01
Ch #	328	1/1/2015	1992.01
Ch #	329	2/1/2015	1992.01

INTERIM STATEMENT OF ADJUSTMENTS

RE: 144 Park Ltd. sale to Achim Mueller and Kerry Mueller
Unit 1, Level 17, Unit 15, Level 3, Unit 47, Level 3, WSCP TBR
Suite 1701, 144 Park Street, Waterloo, Ontario N2L 0B6

Tarion Builder Registration Number: 39278
Tarion Unit Enrolment Number: H1816773

Closing Date: July 25, 2014

PURCHASE PRICE inclusive of HST (where applicable)		\$ 494,990.00
UPGRADE CHARGES inclusive of HST		\$ 52,729.19
TOTAL DEPOSITS	\$ 74,250.00	
UPGRADE CHARGES PAID TO VENDOR	\$ 26,364.59	
UNADJUSTED BALANCE DUE ON THE UNIT TRANSFER DATE	\$ 420,740.00	
BALANCE DUE ON CLOSING paid by certified cheque to <i>Harris, Sheaffer LLP, In Trust</i> E. & O.E.	\$26,364.60	
	\$547,719.19	\$547,719.19

NOTE: In addition to the unadjusted balance due on closing, if any, the Purchaser must deliver the following cheques:

- (i) Certified Cheque payable to **Harris, Sheaffer LLP** in the sum of \$449.81 being the pro-rated amount of monthly Occupancy Fee from July 25, 2014 to the day prior to the first day of the following month.
- (ii) 7 post-dated cheques each dated the 1st of the month, in the sum of \$1,992.01 commencing August 1, 2014 payable to 144 Park Ltd.

In accordance with the Condominium Act, 1998 and the Agreement of Purchase and Sale, the Occupancy Fee comprises the following:

Estimated Total Common Expenses:	\$691.07
Estimated Realty Taxes:	\$200.00
Interest on the Unadjusted Balance Due on the Unit Transfer Date at the prescribed rate of 3.1400%	\$1,100.94
TOTAL	\$1,992.01

NOTE 1: All calculations with respect to Goods and Services Tax or the Harmonized Sales Tax (if applicable), will be addressed on the Final Statement of Adjustments.
E. & O. E.

NOTE 2:

Please note it is the policy of this firm that funds being delivered to us by certified cheque for a closing must be from the purchaser's solicitor's trust account and not directly from a purchaser or any other person. No bank drafts are permitted.

Suite: 1701

Homeowner Name(s): Achim & Kerry Mueller

Date: July 25, 2014

Parking (if applicable): 3-15

Locker (if applicable): 3-47

I/we do hereby acknowledge receipt of the following:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Suite entry keys | <input checked="" type="checkbox"/> Keyless entry fobs |
| <input checked="" type="checkbox"/> Common element Keys | <input checked="" type="checkbox"/> Homeowner's manual |
| <input checked="" type="checkbox"/> Garage door remotes | <input checked="" type="checkbox"/> Welcoming gift |
- Signature Achim Mueller Signature [Signature]

In regards to suite access, please choose one of the following two options:

I / we hereby authorize 144 Park Uptown Waterloo and associated sub-contractors to enter my premises. It is understood that all sub-contractor work will be supervised and that notification of the entry will be left in my suite.

Signature Achim Mueller Signature [Signature]

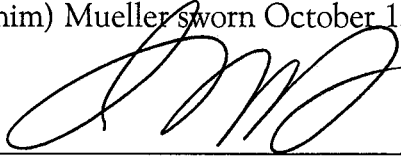
OR

I / we do NOT authorize 144 Park Uptown Waterloo and associated sub-contractors to enter my premises without an appointment. It is understood that it will take longer to resolve my warrantable deficiencies and that I will have to be home to supervise all work performed in my suite.

Signature _____ Signature _____

Signature [Signature]
Mady Developments Representative's Signature

This is Exhibit "F" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

1201



Schedule B Assignment of Agreement of Purchase and Sale - Condominium

Form 150
for use in the Province of Ontario

This Schedule is attached to and forms part of the Assignment of Agreement of Purchase and Sale between:
ASSIGNEE, AJ Mueller and Kerry Mueller (Buyer), and
ASSIGNOR, Oliver Romaniuk (Seller)
for the purchase and sale of 1201 - 144 Park Street Waterloo
dated the 3 day of November, 2014

The Assignee and Assignor agree that the calculation of funds to be paid for this Assignment Agreement, subject to adjustments, is as set out in the following items:

- 1. Total Purchase Price including the original Agreement of Purchase and Sale and this Assignment Agreement: \$ 406500
- 2. Purchase Price of original Agreement of Purchase and Sale as indicated in Schedule C: \$ 357990
- 3. Deposit(s) paid by Assignor to the seller under the original Agreement of Purchase and Sale as indicated in Schedule C, to be paid by the Assignee to the Assignor as follows: \$ 35799

Upon acceptance of this Assignment Agreement and receipt of consent to assign from original seller, if applicable
(Upon acceptance of this Assignment Agreement and receipt of consent to assign from original seller, if applicable)
(Upon occupancy by the Assignee and receipt of consent to assign from the original seller, if applicable)
(Upon final closing of original Agreement of Purchase and Sale and this Assignment Agreement)

- 4. Payment by Assignee to Assignor for this Assignment Agreement: \$ 48510
- 5. Deposit paid under this Assignment Agreement (in accordance with Page 1 of this Assignment Agreement): \$ 5000
- 6. Balance of the payment for this Assignment Agreement: \$ 43510

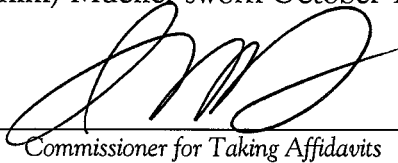
INITIALS OF ASSIGNEE(S):

[Handwritten initials]

INITIALS OF ASSIGNOR(S):

[Handwritten initials OAR]

This is Exhibit "G" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

THIS AGREEMENT MADE this 5th day of November, 2014.

Oliver Alexander Romanuk and Leah Shoshana Weller
(hereinafter referred to as the "Assignor")

-AND-

Kerry Mueller and Achim Mueller
(hereinafter referred to as the "Assignee")

-AND-

144 PARK LTD.
(hereinafter referred to as the "Vendor")

WHEREAS the Assignor and the Vendor entered into an agreement of purchase and sale dated the 14th of February 2010 (the "Purchase Agreement"), a complete copy of which is attached hereto, whereby the Assignor agreed to purchase and the Vendor agreed to sell proposed Residential Unit 1, Level 12, known as Suite 1201 (the "Unit"), which Unit was to be purchased by the Assignor together with its appurtenant interest in the common elements in accordance with the Condominium Plan documentation proposed to be registered against the land and premises described in the Purchase Agreement and located at 144 Park Street, Waterloo, Ontario (the "Condominium").

AND WHEREAS the Assignor and the Assignee desire that the Assignor assign unto the Assignee all of their right, title and benefits under the Purchase Agreement.

AND WHEREAS the Vendor wishes to consent to the said assignment on the terms hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants and agreements herein contained and the sum of TEN DOLLARS (\$10.00) of lawful money of Canada paid by each of the parties hereto to the other and for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of them) the parties hereby covenant and agree as follows:

1. The parties hereto hereby acknowledge and confirm that the foregoing recitals are true both in substance and in fact.
2. The Assignor does hereby assign, transfer and set over to and in favour of the Assignee by way of absolute assignment, all of its rights, title, benefit and interest in, to and under the Purchase Agreement.
3. The Assignee hereby covenants and agrees to and with the Assignor and the Vendor to assume the burden of all obligations on the part of the Assignor to be performed and/or borne pursuant to the Purchase Agreement, and further covenants and agrees to be bound by the terms and provisions of the Purchase Agreement as though he had originally executed same as the Purchaser.
4. The Assignee covenants and agrees with the Vendor that they shall forthwith do and suffer any act, and/or execute any documentation, which the Vendor may require from time to time in its sole, absolute and unfettered discretion for the purposes of confirming the assumption by the Assignee of the Assignor's obligations pursuant to the Purchase Agreement.
5. The Vendor hereby consents to the within assignment from the Assignor to the Assignee.
6. This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
7. Time shall be of the essence of this Agreement, and the Purchase Agreement, and all terms of the Purchase Agreement shall continue in full force and effect.
8. This Agreement shall ensure to the benefit of and be binding upon the parties hereto their respective successors and assigns.
9. The Vendor warrants and confirms that the Purchase Agreement is in good standing and all deposits paid by Purchaser to date under paragraph 1 therein, totaling ~~\$15,000.00~~ shall be credited to the Assignee on closing as part of the purchase price.
10. The Assignee agrees to pay all further deposits payable under the Purchase Agreement, if any, and the balance of the purchase price by bank draft or by certified cheque to the Vendor on closing in accordance with the provisions of the Purchase Agreement.

- 11. The Assignor and Assignee acknowledge and agree that any agreement between the Vendor and Assignor with respect to the reimbursement of the Assignor for interest payable in respect of a deposit loan (i.e. a loan entered into by the Assignor to fund the Assignor's deposit obligations) by the Vendor is personal to the Assignor. Accordingly, the Assignor and Assignee hereby release and forever discharge the Vendor, or its successors and assigns, from any obligation to reimburse the Assignor or Assignee for interest paid on account of a deposit loan.
- 12. The Assignor agrees that with the request for consent to assignment, the Assignor will pay to the Vendor a fee of ~~\$ 2,500.00~~ plus applicable taxes, within 10 days following the execution of this Agreement.
- 13. The Assignor hereby guarantees the due and timely performance and fulfillment of all covenants and obligations of the Assignee arising under this Agreement and the Purchase Agreement, including without limitation, the obligation to pay the purchase price in respect of the Unit to the Vendor, and all other monies owing or payable to the Vendor by the "Purchaser" in accordance with the provisions of the Purchase Agreement, and agrees to indemnify and save the Vendor harmless from and against all losses, damages, costs and expenses which the Vendor may sustain, incur or become liable for, by reason of the Assignee's default under this Agreement, or the Purchase Agreement. In the event of the Assignee's failure to complete the transaction in accordance with the terms and conditions of the Purchase Agreement, the Assignee acknowledges and agrees that the Vendor has the right, but not the obligation, to call upon the Assignor to complete the transaction in the Assignee's place in accordance with the terms of the Purchase Agreement, and in the event that the Vendor calls upon the Assignor to complete the transaction in the Assignee's place, the parties hereto agree that: (i) the Purchase Agreement shall automatically be deemed to be re-assigned by the Assignee to the Assignor; (ii) the deposits paid to date to the Vendor pursuant to the Purchase Agreement shall be forfeited to the Vendor as liquidated damages and not as a penalty and shall not be credited to the Assignor; and (iii) the Assignee shall, through the execution of this document, release the Vendor and the Assignor from and against any and all losses, damages, costs, expenses, actions, proceedings, demands and/or claims whatsoever which the Assignee now has, or may hereafter have, against the other parties hereto, by reason of, or in connection with, the Purchase Agreement (and any and all addenda thereto or amendments thereof) and/or the completion thereof by the Assignor and Vendor in such case.
- 14. The Assignee and Assignor hereby acknowledge and waives any Delayed Occupancy Compensation that the Assignor's would be entitled to under the Agreement, for the period of delay up to the day in which the Assignor receives occupancy of the Unit(s).
- 15. The Assignee shall not further assign the Purchase Agreement without prior written consent of the Vendor, which consent may be unreasonably or arbitrarily withheld in accordance with Paragraph 17 of the Purchase Agreement.
- 16. The parties hereto agree that notice of acceptance and delivery of the within offer and all communications thereto may be made by facsimile machine addressed to the parties hereto or their solicitors or their agents. The parties hereto agree facsimile copies shall constitute original copies.

IN WITNESS WHEREOF the parties have executed this Agreement on the 5th day of Nov, 2014.

Witness

Witness

Witness

Witness

Assignor: Oliver Rossmink

Assignor: Leah Shoshana Weller

Assignee: Kerry Mueller

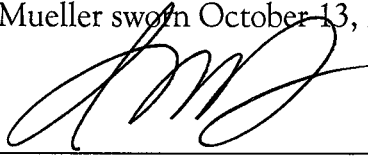
Assignee: Achim Mueller

PRC/LW
KM
A

Address: L7C8
Duane RI OH NBU 1G0
Phone No: 419-501-7990

144 PARK LTD.
Per: _____
Name: Jonathan A. Mueller
Title: Vice President, Sales and Marketing
I have the authority to bind the Corporation

This is Exhibit "H" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

Suite: # 1201
Homeowner Name(s): Oliver Romanuk
Date: June 3/2014
Parking (if applicable): A-63 & A64
Locker (if applicable): A-69

I/we do hereby acknowledge receipt of the following:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Suite entry keys | <input checked="" type="checkbox"/> Keyless entry fobs |
| <input checked="" type="checkbox"/> Common element Keys | <input checked="" type="checkbox"/> Homeowner's manual |
| <input checked="" type="checkbox"/> Garage door remotes | <input checked="" type="checkbox"/> Welcoming gift |
- _____
Signature
- _____
Signature

In regards to suite access, please choose one of the following two options:

I / we hereby authorize 144 Park Uptown Waterloo and associated sub-contractors to enter my premises. It is understood that all sub-contractor work will be supervised and that notification of the entry will be left in my suite.

Signature

Signature

OR

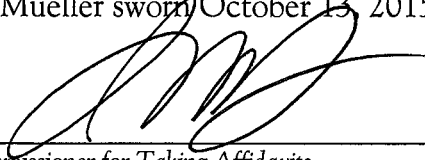
I / we do NOT authorize 144 Park Uptown Waterloo and associated sub-contractors to enter my premises without an appointment. It is understood that it will take longer to resolve my warrantable deficiencies and that I will have to be home to supervise all work performed in my suite.

Signature

Signature

Mady Developments Representative's Signature

This is Exhibit "I" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

AJ Mueller

From: AJ Mueller <mueller.ajm@gmail.com>
Sent: Friday, February 20, 2015 11:45 AM
To: 'Arif N. Dhanani'
Subject: RE: 144 Park monthly Residents Meeting

Flag Status: Flagged

Hello Arif,

Thank you for your response and clarification which we will share at our residents meeting.

I am disappointed to hear that one party has stopped payment on occupancy cheques since that type of action hurts everyone in the end. Having said this, I am happy to hear only one party chose to take that action. In reading the court order, I see no reference to the 20 unsold units of 144 Park. What will happen to those and is anyone paying occupancy fees for them now? What about after registration?

The quick follow-up call you mentioned yesterday would be appreciated and may save a lot of time in the end. I can make myself available at any time today.
Please advise.

Many thanks,
AJ

From: Arif N. Dhanani [mailto:andhanani@collinsbarrow.com]
Sent: February 20, 2015 10:31 AM
To: AJ Mueller
Subject: RE: 144 Park monthly Residents Meeting

Dear Sir,

Thank you for your email and your invitation to participate in the residents' monthly meeting. I wanted to get back to you on the concerns you raise in your e-mail, as follows:

- The Lien Trustee's (the "Trustee") powers are derived from the Court Order (the "Order") appointing the Trustee. As set out in the Order, a copy of which is attached, the Trustee's mandate generally includes operating the building, registering the condominium declaration and final Plan of Condominium and closing the 129 pre-sold units. There is no provision or authorization in the Order for the Trustee to complete the common element areas. If the resident group would like the Trustee to oversee the completion of the common element areas, the Trustee has no issue with doing this; however, the resident group, through its counsel, will have to request of the Court that the Order be amended. In that regard, one of the issues that will have to be addressed in order for the Court to agree to amend the Order is where the funding for this work will come from.
- The Trustee understands that a number of residents are hesitant or unwilling to pay occupancy fees. In one particular case, stop payments were put on occupancy cheques for January and February 2015. The occupancy fees are being received and cashed by the Trustee, who is a Court officer, and not 144 Park Ltd./Mady. Occupancy fees serve to pay for goods and services required to operate the building, including heating, hydro, maintenance and other such items. To date, the Trustee has made arrangements with the concierge/security company, property cleaners, property management and snow removal/landscape company,

among others, to return to service the building on a full time basis. Without the residents' payment of occupancy fees, the Trustee will not be in funds to pay for many of these services and they may have to be discontinued by the Trustee if funds are not available.

- Your reference to the heating issue in the building has been addressed. The issue resulted from the heating system requiring a glycol top up. The Trustee has authorized and undertaken to pay the service provider to top up the glycol level in the HVAC system and we are advised that this should address the issue. We are also attempting to address an issue with the boiler, wherein certain residents are intermittently not getting any hot water. The water treatment system is in need of maintenance; however, this is not a life safety/priority issue at this time. As referred to previously, items such as attending to the stability of heating and hot water are being addressed first in light of the weather conditions.
- The Trustee is focusing its attention on having the condominium registered. Once the condominium is registered, the Condominium Corporation will be formed and will be in a position to address the items referred to in your e-mail. The Trustee will, after receiving the proceeds from the closing of the sales of the condominiums, then be in a position to address claims of 144 Park's various constituents, including creditors and residents.

Unfortunately, I am not available to attend the residents' meeting next week.

Yours truly,

COLLINS BARROW TORONTO LIMITED

in its capacity as Trustee under the Construction Lien Act
of 144 Park and not in its personal or corporate capacity

Arif N. Dhanani, Senior Manager | Collins Barrow Toronto Limited
T: 647-726-0183 F: 416-480-2646 E: andhanani@collinsbarrow.com
11 King St. W., Suite 700, Box 27, Toronto, Ontario, Canada, M5H 4C7

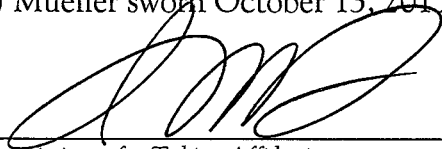
An independent member of Baker Tilly International



Information contained in this communication is privileged and confidential and is intended for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone or email and delete the message.

Information contained in this communication, unless expressly stated otherwise, is not intended or written to be used as tax advice. Any tax advice expressly stated as such herein is based on the facts provided to us either verbally or in writing and on current tax law including judicial and administrative interpretation. Tax law is subject to continual change, at times on a retroactive basis and may result in additional taxes, interest or penalties. Should the facts communicated to us be incorrect or incomplete or should the law or its interpretation change, our advice may be inappropriate. We are not responsible for updating our advice for changes in law or interpretation after the date hereof.

This is Exhibit "J" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

From: Karla Roelofsz <kroelofsz@mady.com>
Sent: June-01-15 8:04 AM
To: Karla Roelofsz
Subject: Registration - Closings

Dear Residents,

We are pleased to advise that 144 Park is now a registered condominium. Collins Barrow Toronto Limited (the "Trustee") and its consultants are working hard to finalize the closing arrangements for the individual suites. We expect that your lawyers will be in contact with you once they have received closing packages from Harris Sheaffer LLP, the law firm handling unit closing procedures for the Trustee.

The Trustee understands that certain residents may be desirous of closing on an expedited basis as they may not require traditional bank approvals and mortgages, but would rather close on a cash basis.

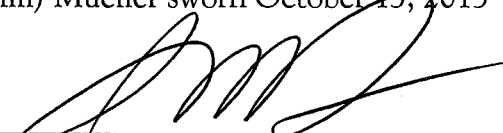
I have been asked to compile a list of those residents that wish to close on an accelerated basis. If those residents that are interested in doing so could please contact me as soon as possible, this would be appreciated. I will forward your name to the Trustee so that its counsel may contact your lawyer to advise of an accelerated closing date, if an accelerated closing date is possible.

Kind regards,

Karla Roelofsz
Customer Service Team Leader
MADY Development Corporation

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

This is Exhibit "K" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

AJ Mueller

From: Karla Roelofsz <kroelofsz@mady.com>
Sent: Monday, June 1, 2015 3:07 PM
To: mueller.ajm@gmail.com
Cc: Kerry Mueller; Tim McGowan
Subject: RE: Registration - Closings

Ok thank you I will add you to the list!

From: mueller.ajm@gmail.com [mailto:mueller.ajm@gmail.com]
Sent: Monday, June 01, 2015 3:07 PM
To: Karla Roelofsz
Cc: Kerry Mueller; Tim McGowan
Subject: Re: Registration - Closings

Hi Karla,

Kerry and I are ok to close on 1701 and 1201 as soon as we are back in the country on June 15th.

Thanks,
AJ

AJ Mueller
519-503-7900

From: Karla Roelofsz
Sent: Monday, June 1, 2015 2:03 PM
To: Karla Roelofsz
Subject: Registration - Closings

Dear Residents,

We are pleased to advise that 144 Park is now a registered condominium. Collins Barrow Toronto Limited (the "Trustee") and its consultants are working hard to finalize the closing arrangements for the individual suites. We expect that your lawyers will be in contact with you once they have received closing packages from Harris Sheaffer LLP, the law firm handling unit closing procedures for the Trustee.

The Trustee understands that certain residents may be desirous of closing on an expedited basis as they may not require traditional bank approvals and mortgages, but would rather close on a cash basis.

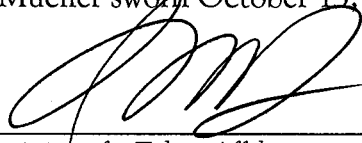
I have been asked to compile a list of those residents that wish to close on an accelerated basis. If those residents that are interested in doing so could please contact me as soon as possible, this would be appreciated. I will forward your name to the Trustee so that its counsel may contact your lawyer to advise of an accelerated closing date, if an accelerated closing date is possible.

Kind regards,

Karla Roelofsz
Customer Service Team Leader
MADY Development Corporation

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

This is Exhibit "L" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

June 5, 2015

Via Email Only

TO CERTAIN RESIDENTS OF
144 PARK, WATERLOO, ON

Dear Resident:

Re: In the Matter of the Construction Lien Proceeding of 144 Park

On January 22, 2015, Collins Barrow Toronto Limited was appointed trustee (the “Trustee”) of the project commonly known as 144 Park (the “Condominium”) by the Ontario Superior Court of Justice.

The Trustee has registered, as of May 25, 2015, the Condominium and is now in a position to start closing units. You are receiving this letter as your purchase and sale Agreement with 144 Park Ltd. (“144”) included the purchase of more than one parking spot.

The Condominium’s architecture was always designed to be connected to the adjacent One 55 Uptown development (“155 Uptown”) with a shared parking facility. The Trustee has reviewed 144’s parking allocations and it has become apparent that the number of parking spots has been over allocated within the Condominium. As a result, the Trustee is prepared to make the offers set out below to facilitate the closing of your transaction and meet your parking needs for an interim period until 155 Uptown is complete.

Option A – Buyback One of the Parking Spots

The Trustee will reduce your purchase price by \$20,000 on closing for the release to 144 of your additional parking space.

Option B – Provision of Temporary Parking in Bauer Lofts

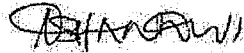
If you choose to retain an additional parking we have made arrangements for the vendor to pay for temporary parking in the project known as Bauer Lofts until the 155 Uptown parking structure is open, at which time you will be granted parking privileges permanently within 155 Uptown. The vendor agrees to reduce your purchase price by \$7,000 on closing in addition to covering the cost of parking at Bauer Lofts for up to two years. Once the One 55 Uptown complex is built, you will receive a licensed parking spot within this newly built complex.

Please email the writer at andhanani@collinsbarrow.com to notify the Trustee of your preference. We would be pleased to arrange a meeting at 144 Park to discuss the options available to you. In order to book this meeting please email Karla Roelofs or attend at the customer care office on site.

Yours truly,

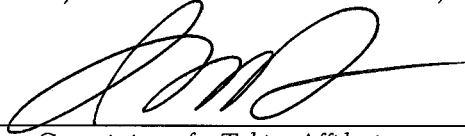
COLLINS BARROW TORONTO LIMITED
in its capacity as Trustee under the Construction Lien Act
of 144 Park and not in its personal or corporate capacity

Per:



Arif Dhanani, CPA, CA, CIRP

This is Exhibit "M" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AM', written over a horizontal line.

Commissioner for Taking Affidavits

From: mueller.ajm@gmail.com
Sent: June-09-15 1:11 AM
To: Karla Roelofsz
Cc: Kerry Mueller; Tim McGowan
Subject: Re: Letter to Purchasers re Parking at 144 Park

Good Morning.

Karla, Arif, please clarify if this offer is looking for volunteers or if you are imposing a material change to our contracts?

Thanks,
AJ

AJ Mueller
519-503-7900

From: Karla Roelofsz
Sent: Friday, June 5, 2015 6:02 PM
Subject: Letter to Purchasers re Parking at 144 Park

Hello,

Please see the attached letter from the lien trustee Arif Dhanani at Collins Barrow.

If you have any questions or concerns please do not hesitate to contact me.

Kind regards,

Karla Roelofsz
Customer Service Team Leader
MADY Development Corporation

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

This is Exhibit "N" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

YONGE CORPORATE CENTRE
4100 YONGE STREET, SUITE 610, TORONTO, ONTARIO M2P 2B5
TELEPHONE (416) 250-5800 / FACSIMILE (416) 250-5300

June 16, 2015
File No.: 090328
Contact: Karen McNeill at 416-250-3695

Delivered by Facsimile Only (1-519-741-8060)

Tim J. McGowan
Madorin, Snyder LLP
Barristers and Solicitors
55 King Street West
6th Floor
P.O. Box 1234, Station C
Kitchener, Ontario N2G 4G9

Dear Sirs:

RE: 144 Park Ltd. by its Court Appointed Trustee, Collins Barrow Toronto Limited sale to Kerry Mueller and Achim Mueller
Unit 1, Level 12, WSCP 591
Suite 1201, 144 Park Street, Waterloo, Ontario N2L 0B6

We are pleased to advise that the Declaration and Description creating the condominium were registered in the Land Registry Office for the Land Titles Division of Waterloo on May 25, 2015 pursuant to Instrument Number WR882241 thereby creating Waterloo Condominium No. 591.

We also wish to advise you that Collins Barrow Toronto Limited was appointed by court order as Trustee of the property owned by 144 Park Ltd., including the units in the condominium. The court order was registered on title to said property on January 23, 2015 as Instrument No. WR863820.

At the time of execution of the Agreement of Purchase and Sale, the Vendor agreed to sell to the Purchaser(s) a second Parking Unit. Unfortunately there are not sufficient parking units available to be sold in this project. Accordingly, the Court Appointed Trustee is requesting that the Purchaser(s) agree to amend the Agreement of Purchase and Sale to delete the second Parking Unit and correspondingly reduce the Purchase Price by the amount of \$33,900.00 (inclusive of HST). If your client is agreeable to same, please sign and return a copy of this letter to us by no later than 5:00 p.m. on June 22, 2015 and we will then be in a position to set a final closing date. If we do not hear from you by that time or if your client is not agreeable to the Amendment, the Trustee may seek a Court Order terminating the Agreement of Purchase and Sale.

Yours very truly,
Harris, Sheaffer LLP

Mark Karoly*

Mark Karoly

*Executed pursuant to the Electronic Commerce Act

The undersigned agrees to amend the Agreement of Purchase and Sale in the manner described above. Dated this _____ day of June, 2015.

Kerry Mueller and Achim Mueller, by his/hcr/their solicitor
Tim J. McGowan.

Per _____
Tim J. McGowan

BARRE SCHENBERG	GARY H. HARRIS	ROBERT D. SHEAFFER	PHILIP J. DRAHER	MARK F. FRIEDMAN (1981 - 2009)	JEFFREY R. SILVER
STEPHEN M. KARR	MARTIN R. MOUSER	MARK L. KAROLY	MICHAEL J. BAUM	ARI M. KATZ	RAZVAN NICOLAE
					ROBERT STONE

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

YONGE CORPORATE CENTRE
4100 YONGE STREET, SUITE 610, TORONTO, ONTARIO M2P 2B6
TELEPHONE (416) 250-5300 / FACSIMILE (416) 250-3300

June 16, 2015
File No.: 090328
Contact: Karen McNeill at 416-250-3695

Delivered by Facsimile Only (1-519-741-8060)

Tim J. McGowan
Madorin, Snyder LLP
Barristers and Solicitors
55 King Street West
6th Floor
P.O. Box 1234, Station C
Kitchener, Ontario N2G 4G9

Dear Sirs:

RE: 144 Park Ltd. by its Court Appointed Trustee, Collins Barrow Toronto Limited sale to Achim Mueller and Kerry Mueller
Unit 1, Level 17, WSCP 591
Suite 1701, 144 Park Street, Waterloo, Ontario N2L 0B6

We are pleased to advise that the Declaration and Description creating the condominium were registered in the Land Registry Office for the Land Titles Division of Waterloo on May 25, 2015 pursuant to Instrument Number WR882241 thereby creating Waterloo Condominium No. 591.

We also wish to advise you that Collins Barrow Toronto Limited was appointed by court order as Trustee of the property owned by 144 Park Ltd., including the units in the condominium. The court order was registered on title to said property on January 23, 2015 as Instrument No. WR863820.

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Yours very truly,
Harris, Sheaffer LLP

Mark Karoly*

Mark Karoly

*Executed pursuant to the Electronic Commerce Act

The undersigned agrees to amend the Agreement of Purchase and Sale in the manner described above. Dated this _____ day of June, 2015.

Achim Mueller and Kerry Mueller, by his/her/their solicitor
Tim J. McGowan.

Per _____
Tim J. McGowan

BARRY ROTENBERG

GARY H. HARRIS

ROBERT D. SHEAFFER

PHILIP J. DRAVER

MARK F. FREEDMAN
(1981 - 2009)

JEREMY R. SILVER

STEPHEN M. KANE

MARTIN R. HOUSER

MARK L. KAROLY

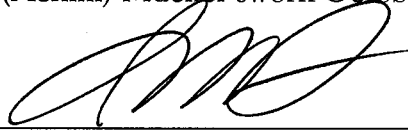
MICHAEL J. BALIM

ARI M. KATZ

RAZVAN NICOLAE

ROBERT SMOKE

This is Exhibit "O" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

YONGE CORPORATE CENTRE
4100 YONGE STREET, SUITE 610, TORONTO, ONTARIO M2P 2B5
TELEPHONE (416) 250-5500 / FACSIMILE (416) 250-5300

July 6, 2015
File No.: 090328
Contact: Karen McNeill at 416-250-3695

Delivered by Facsimile Only (1-519-741-8060)

Tim J. McGowan
Madovin, Snyder LLP
Barristers and Solicitors
55 King Street West
6th Floor
P.O. Box 1234, Station C
Kitchener, Ontario N2G 4G9

Dear Sirs:

RE: 144 Park Ltd. by its Court Appointed Trustee, Collins Barrow Toronto Limited sale to Kerry Mueller and Achim Mueller
Unit 1, Level 12, WSCP 591
Suite 1201, 144 Park Street, Waterloo, Ontario N2L 0B6

This is further to our letter to you dated June 15, 2015 relating to the parking units in the above property.

It has come to our attention that the purpose of the letter may have been misunderstood by some Purchasers so we are writing to you to clarify the reason that our urgent letter was sent.

The Condominium contains 148 residential units and 149 permanent parking units. When the Trustee assumed control of the project, it determined that there were 129 Agreements of Purchase and Sale in place with commitments to sell 156 parking units. In other words, there are insufficient parking units constructed to allow all existing Agreements to be completed in accordance with their terms. Furthermore, there are 19 unsold units in the building. As you know, a Trustee has a fiduciary duty to maximize the value of the property for the benefit of Lien Claimants and Creditors. To do so, the Trustee is of the opinion that it needs to be able to allocate some parking units to the unsold units in order to preserve marketability and sell the units at a reasonable value.

For your information, there are also ten (10) parking spaces in the building that can be used as parking until the adjoining building is constructed. At that time, these ten (10) parking spaces will become drive aisles and will be unavailable for parking purposes. The Trustee has not yet determined how these parking spaces can be allocated but it will be in a position to lease these spaces on a temporary basis.

We hope that the above provides some clarification to you as to the purpose of our prior correspondence. Based on the above, we would ask that you kindly speak with your clients and ask them whether they are prepared to reconsider their position on this matter. If they are prepared to do so, please return an executed copy of our June 15, 2015 letter by no later than July 10, 2015.

Yours very truly,
Harris, Sheaffer LLP

*Ari Katz**

Ari Katz

**Executed pursuant to the Electronic Commerce Act*

BARIS RUTENBERG

GARY H. HARRIS

ROBERT D. SULLIVAN

PHILIP J. DRAPER

MARK E. FRIEDMAN
(1981 - 2009)

JITREY P. SIVRA

STEPHEN M. KASH

MARTIN E. HOUSER

MARA L. KAROBY

MR. HAN J. BALM

ARI M. KATZ

RAJAN NIKOLAE

ROBERT SHORE

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

YONGE CORPORATE CENTRE
4100 YONGE STREET, SUITE 610, TORONTO, ONTARIO M2P 2B5
TELEPHONE (416) 250-5800 / FACSIMILE (416) 250-5300

July 6, 2015
File No.: 090328
Contact: Karen McNeill at 416-250-3695

Delivered by Facsimile Only (1-519-741-8060)

Tim J. McGowan
Madorin, Snyder LLP
Barristers and Solicitors
55 King Street West
6th Floor
P.O. Box 1234, Station C
Kitchener, Ontario N2G 4G9

Dear Sirs:

RE: 144 Park Ltd. by its Court Appointed Trustees, Collins Barrow Toronto Limited sale to Achim Mueller and Kerry Mueller
Unit 1, Level 17, WSCP 591
Suite 1701, 144 Park Street, Waterloo, Ontario N2L 0B6

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Yours very truly,
Harris, Sheaffer LLP

Ari Katz*

Ari Katz

*Executed pursuant to the Electronic Commerce Act

■
BARRY RUTENBERG

■
GARY H. HARRIS

■
ROBERT D. SHEAFFER

■
PHILIP J. DRAVER

■
MARK E. FRIEDMAN
(1981 - 2009)

■
JEFFREY R. SUYER

■
STEPHEN M. KARR

■
MARLIN F. HOUSER

■
MARA L. KAROLY

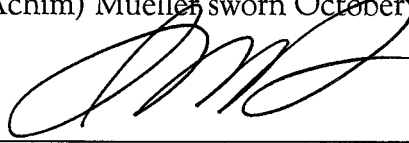
■
MICHAEL J. BAUM

■
ARI M. KATZ

■
RAZVAN NICOLAE

■
ROBERT SLORE

This is Exhibit "P" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

DUNCAN, LINTON LLP

LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
MICHAEL A. VAN BODEGOM • PATRICK J. KRAEMER • DANIEL W. VEINOT
PETER A. HERTZ • MICHAEL R.E. KOCHIEFF • THOMAS E. SANDERSON

(+Denotes Professional Corporation)

P.O. BOX 457
45 ERB STREET EAST
WATERLOO, ONTARIO
N2J 4B5

TEL: 519-886-3340
FAX: 519-886-8651
WEBSITE: www.kwlaw.net
EMAIL: iad@kwlaw.net

July 9, 2015
File No. 0039490

Arif Dhanani
COLLINS BARROW TORONTO LLP, TRUSTEE
Collins Barrow Place
11 King Street West, Suite 700
Toronto, ON M5H 4C7

VIA FAX (1-416-480-2646)

Dear Mr. Dhanani:

Re: 144 Park Ltd. – Unit Purchases

We have been retained by a number of individuals who have purchased condominium units in this project. For clarity, this letter is not on behalf of the “ad hoc committee” but rather a separate group of concerned unit holders whom have signed Agreements of Purchase and Sale (“APS”) for units at 144 Park.

We have been advised by our clients that they have been approached by representatives of both MarshallZehr and Collins Barrow and been told that they must agree to release their entitlement to purchase two parking spaces or their APS will be revoked. The unit holders have been offered various amounts as “compensation” for releasing one of their parking spots. Certain representations have been made concerning financial viability of the project that make it essential for our clients to agree to relinquish one parking space for what appears to be inadequate compensation. Not only is the proposed reduction in purchase price inadequate compensation for the lost parking space, there is no compensation for the obvious reduction in value of the residential unit. Letters are also being sent by Harris Sheaffer indicating that if unit purchasers do not relinquish parking spaces that “the Trustee may seek a Court Order terminating the Agreement of Purchase and Sale”.

Before our clients can assess their position and respond to the Trustee's requests, they require an understanding of the current financial circumstances for 144 Park. Please provide us with an accounting of the project to date. That should include the status of deposits, arrears of interim occupancy payments, the status of the condominium reserve fund and the amounts required to pay out MarshallZehr with respect to its second mortgage and any amounts owing in relation to the super-priority loan.

Furthermore, our clients have reviewed the documentation surrounding the 95 units that are expected to close in early July. We note that Appendix O lists the units that are closing in early July and seven of those units are entitled to two parking spots. Our clients need an explanation of why these seven units are entitled to two parking spaces (if they are in fact receiving those spaces). Once again, we will need this information immediately so that our clients can properly assess the offer to release one of their parking spots.

Our clients also note that there is an additional ten parking spots available, at least on an interim basis, in the area that is projected to connect with the 155 Park project. Our clients also request an explanation of the proposal for this interim parking area. As we understand it, the Trustee has no authority to effect a sale of the 20 unsold units. Please advise if you intend to seek authority to deal with those unsold units.

We are concerned that the Trustee take steps to adequately protecting the interests of unit purchasers and not to act concert with the second mortgagee, MarshallZehr in an effort to maximize payment of its second mortgage security. Unit purchasers entered into Agreements of Purchase and Sale many months ago, have taken occupancy of those units and paid interim occupancy payments. They have also paid significant deposits and arranged for and paid for upgrades to their units. All of this occurred with the full knowledge of the mortgagees (who consented to the condominium registration in May 2015). Unit purchasers were repeatedly promised that their purchase transactions would be closed soon after registration was obtained.

On behalf of our clients, we once again request a meeting with you to discuss the concerns of the present unit purchasers. Time is of the essence and it appears to be in the best interests of all stakeholders that the issues identified above be addressed and this project completed as expeditiously as possible. We will provide a proposed agenda for this meeting once we are provided the information requested in this letter.

In sum, we request the following information so that unit purchasers can make an informed decision on whether to release their second parking spot:

1. A current financial accounting for 144 Park;
2. An explanation of why seven of the units projected to close are entitled to two parking spaces;

3. An explanation of the plans for any interim parking in the area that is projected to connect with the 155 Park project; and,
4. The expected vesting date for the remaining units at 144 Park.

We look forward to your prompt response.

Yours very truly,
DUNCAN, LINTON LLP



Irwin A. Duncan
IAD/JJAG

Transmission Report

Date/Time 07-09-2015 03:27:14 p.m. Transmit Header Text
 Local ID 1 5198868651 Local Name 1 Duncan Linton

**This document : Confirmed
 (reduced sample and details below)
 Document size : 8.5"x11"**

DUNCAN, LINTON LLP LAWYERS

IRWIN A. DUNCAN+ • J. DAVID LINTON+ • DAVID M. STEELE
 MICHAEL A. VAN BODEGOM • PATRICK J. KRAEMER • DANIEL W. VEINOT
 PETER A. HERTZ • MICHAEL R.E. KOCHREFF • THOMAS E. SANDERSON
(+Denotes Professional Corporation)

P.O. BOX 457
 45 ERB STREET EAST
 WATERLOO, ONTARIO
 N2J 4B5

TEL: 519-886-3340
 FAX: 519-886-8651
 WEBSITE: www.kwlaw.net
 EMAIL: iad@kwlaw.net

July 9, 2015
 File No. 0039490

Arif Dhanani
 COLLINS BARROW TORONTO LLP, TRUSTEE
 Collins Barrow Place
 11 King Street West, Suite 700
 Toronto, ON M5H 4C7

VIA FAX (1-416-480-2646)

Dear Mr. Dhanani:

Re: 144 Park Ltd. – Unit Purchases

We have been retained by a number of individuals who have purchased condominium units in this project. For clarity, this letter is not on behalf of the "ad hoc committee" but rather a separate group of concerned unit holders whom have signed Agreements of Purchase and Sale ("APS") for units at 144 Park.

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D

Total Pages Scanned : 3

Total Pages Confirmed : 3

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
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Abbreviations:

HS: Host send	PL: Polled local	MP: Mailbox print	CP: Completed	TS: Terminated by system
HR: Host receive	PR: Polled remote	RP: Report	FA: Fail	G3: Group 3
WS: Waiting send	MS: Mailbox save	FF: Fax Forward	TU: Terminated by user	EC: Error Correct

This is Exhibit "Q" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

MADORIN, SNYDER LLP
BARRISTERS & SOLICITORS

W.H.P. MADORIN, Q.C.*
B. LACKENBAUER*
S.R. GRANT*
T.J. McGOWAN*
E.J. DREYER*
F.A. MENDES
C.D. CLEMMER

F.D. CARERE*
J.H. BENNETT*
P.L. HEBNER*
L.E. WAY*
R.K. BICKLE
D.E. PHILLIPS-BROWN

P.O. BOX 1234
55 KING STREET WEST, 6TH FLOOR
KITCHENER, ONTARIO
N2G 4G9
519-744-4491
FAX 519-741-8060

COUNSEL : THE HONOURABLE R.C. SILLS, Q.C.(1932 - 2015)
H.W. SNYDER
J.R. GUY
W.C.DREWITZ

July 10, 2015

Sent Via Email

Harris, Sheaffer LLP
Barristers & Solicitors
4100 Yonge Street, Suite 610
Toronto, Ontario M2P 2B5

Attention: Ari Katz

Dear Sir:

Re: Mueller purchase from 144 Park Ltd.
1701-144 Park Street, Waterloo, and
1201-144 Park Street, Waterloo
Your File No.: 090328
Our File No.: 452603

We are writing in response to your July 6, 2015 letters. In order for my clients to properly consider your requests, we require further information from you. Please confirm whether the Trustee expects a shortfall in the amounts owing to the mortgage holders from the sale proceeds. At this point, what is the amount owing to the various mortgage holders?

As well, if certain parking spaces are to be re-allocated to unsold units, won't there be a corresponding decrease in value of the units to which those parking spaces were originally assigned? Note that my clients paid more in 2014 for their second parking spot with unit 1701, so feel the amount you are offering is unfair as it is below current market value.

Please also advise on what legal basis can my clients be forced to give up an additional parking space for each unit in the case where those additional parking units have been contracted for and delivered to my clients under the Agreement of Purchase and Sale.

Having said that, on a without prejudice basis, my clients would consider relinquishing Unit 1201 and the two parking units accompanying that Unit, in return for a full refund of all monies

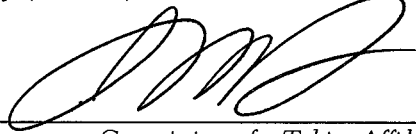
paid to date (including a satisfactory arrangement with respect to the Interim Occupancy Fees already paid) in the event you can point to a persuasive legal or contractual obligation requiring my client to relinquish the second parking space.

Yours very truly,
Madorin, Snyder LLP

A handwritten signature in black ink, appearing to read 'TJM', with a long, sweeping horizontal line extending to the right.

Tim J. McGowan
TJM:mab

This is Exhibit "R" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

AJ Mueller

From: Tim McGowan <tmcgowan@kw-law.com>
Sent: Wednesday, July 22, 2015 12:07 PM
To: Kerry Mueller; mueller.ajm@gmail.com
Cc: Mary Anne Baldwin
Subject: FW: Mueller p/f 144 Park Ltd - Suite 1201
Attachments: SKMBT_C75415071016160.pdf

Fyi.

Tim J. McGowan
Madorin, Snyder LLP
Barristers & Solicitors
55 King Street West, P O Box 1234
Kitchener, ON, N2G 4G9
Phone 519-744-4491, Fax 519-741-8060
E-mail: tmcgowan@kw-law.com

This e-mail is confidential and intended only for the addressee. Disclosure of this e-mail to anyone else is not intended as a waiver of confidentiality or privilege. If you have received this e-mail in error, please notify us immediately.

From: Karen McNeill [mailto:kmcneill@harris-sheaffer.com]
Sent: July-22-15 8:28 AM
To: Mary Anne Baldwin; Ari Katz
Cc: Tim McGowan
Subject: RE: Mueller p/f 144 Park Ltd - Suite 1201

We acknowledge receipt of your letter.

Our client has instructed us to advise you that they cannot accept your client's offer to be released from their obligations under the Agreement of Purchase and Sale.

As this a court driven process, all Purchasers must be treated equally and the Vendor is prepared to reduce the Purchase Price of \$33,900.00 (inclusive of HST) for the return of their Parking Unit 32, Level 1. If the Purchaser is prepared to also sell their other Parking Unit, being Unit 63, Level A, the offer of a further \$33,900.00 (inclusive of HST) will also apply, as it is for other Purchasers.

Kind regards,

Karen McNeill
Law Clerk
kmcneill@harris-sheaffer.com
direct dial 416.250.3695

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

Yonge Corporate Centre
4100 Yonge Street, Suite 610, Toronto, ON M2P 2B5
Telephone (416) 250-5800/Facsimile (416) 250-5300
www.harris-sheaffer.com

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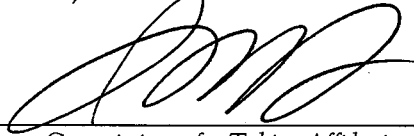
From: Mary Anne Baldwin [<mailto:mbaldwin@kw-law.com>]
Sent: Friday, July 10, 2015 4:24 PM
To: Ari Katz; Karen McNeill
Cc: Tim McGowan
Subject: Mueller p/f 144 Park Ltd - Units 1701 & 1201

Please see our letter of today's date attached in these matters.

Mary Anne Baldwin
Real Estate Clerk to Tim J. McGowan
Madorin, Snyder LLP
Barristers & Solicitors
55 King Street West, P O Box 1234
Kitchener, ON, N2G 4G9
Phone 519-744-4491 (Ext. 250) Fax 519-741-8060
E-mail: mbaldwin@kw-law.com

This e-mail is confidential and intended only for the addressee. Disclosure of this e-mail to anyone else is not intended as a waiver of confidentiality or privilege. If you have received this e-mail in error, please notify us immediately.

This is Exhibit "S" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

HARRIS, SHEAFFER LLP

BARRISTERS & SOLICITORS

YONGE CORPORATE CENTRE
4100 YONGE STREET, SUITE 610, TORONTO, ONTARIO M2P 2B5
TELEPHONE (416) 250-5800 / FACSIMILE (416) 250-5300

July 21, 2015

FAX COVER SHEET:

To:

Tim J. McGowan

Madorin, Snyder LLP

Barristers and Solicitors

Fax: 1-519-741-8060

From:

Karen McNeill

Direct Line: 416-250-3695

Number of pages including cover sheet: 1

RE: 144 Park Ltd. s/t Kerry Mueller and Achim Mueller
Unit 1, Level 12, Unit 63, Level A, Unit 32, Level 1, Unit 69, Level A, WSCP 591
Occupancy Date: June 3, 2014
Our File No: 090328

Please be advised that Collins Barrow Toronto Limited was appointed by court order as trustee (the "Trustee") of the property owned by 144 Park Ltd., including the units in the condominium. The court order was registered on title to the property on January 23, 2015 as Instrument No. WR863820.

The Trustee has been working with lenders and other stakeholders in this project, including certain members of the Ad Hoc Purchasers' Committee and the potential developer of 155 Uptown Waterloo, to find a meaningful parking solution to the current shortage of parking in 144 Park. In connection therewith, the Trustee has reached a potential solution that balances the many stakeholder interests. The allocation of some of the Parking Units in this project are now being reallocated in order to achieve this solution.

In this regard, your client has now been allocated a new Parking Unit and this allocation will take effect at noon on July 24, 2015. Your client's new Parking Unit allocation is Unit 32, Level 1. **Please advise your client that arrangements must be made to move vehicles from the previously allocated Parking Unit at noon on July 24, 2015 because the previously allocated Parking Unit has been reallocated for someone else's use commencing at noon on July 24, 2015.** Please be further advised that if your client agreed to purchase more than one Parking Unit, you must check the re line of this fax to verify which Parking Unit has been reallocated.

In the event your client requires any assistance in locating their new Parking Unit, kindly speak to the Trustee's site representative, Ms. Karla Roelofsz. The Trustee is most grateful for your cooperation and assistance in effecting this allocation. The Trustee intends to schedule a Title Transfer Date as soon as possible.

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■
BARRY ROTENBERG

■
GARY H. HARRIS

■
ROBERT D. SHEAFFER

■
PHILIP J. DRAPER

■
MARK F. FREEDMAN
(1981 - 2009)

■
JEFFREY P. SILVER

■
STEPHEN M. KARR

■
MARTIN P. HOUSER

■
MARK L. KAROLY

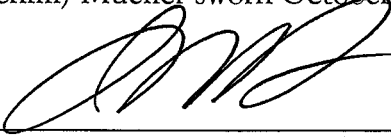
■
MICHAEL J. BAUM

■
ARI M. KATZ

■
RAZVAN NICOLAE

■
ROBERT SHORE

This is Exhibit "T" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

MADORIN, SNYDER LLP

BARRISTERS & SOLICITORS

W.H.P. MADORIN, Q.C.[^]
B. LACKENBAUER*
S.R. GRANT*
L.E. WAY*
R.K. BICKLE
D.E. PHILLIPS-BROWN
R.E. WEBER

F.D. CARERE*
J.H. BENNETT*
T.J. MCGOWAN*
E.J. DREYER*
F.A. MENDES
C.D. CLEMMER

P.O. BOX 1234
55 KING STREET WEST, 6th FLOOR
KITCHENER, ONTARIO
N2G 4G9
519-744-4491
FAX 519-741-8060
www.kw-law.com

COUNSEL : THE HONOURABLE R.C. SILLS, Q.C (1932 - 2015).
H.W. SNYDER
J.R. GUY
W.C. DREWITZ

PERSONAL EMAIL: TMCOWAN@KW-LAW.COM
DIRECT TELEPHONE EXT:228

July 23, 2015

Via e-mail: akatz@harris-sheaffer.com; kmcneill@harris-sheaffer.com

Harris, Sheaffer LLP
Barristers and Solicitors
Yonge Corporate Centre
610 – 4100 Yonge Street
Toronto, Ontario M2P 2B5

Attention: Mr. Ari Katz

Dear Sir:

**Re: 144 Park Ltd. by its Court Appointed Trustee, Collins Barrow Toronto Limited
sale to Achim Mueller and Kerry Mueller
Unit 1, Level 12, WSCP 591
Suite 1201 - 144 Park Street, Waterloo, Ontario N2L 0B6
Our File No. 453378**

I have Ms. McNeill's faxed letter dated July 21, 2015.

Please advise whether the new parking space will be deeded to my clients on closing and as such will be their permanent parking space.

I look forward to receiving confirmation from you that the new allocated parking unit will be deeded to my clients.

Yours truly,

MADORIN, SNYDER LLP

Per:


TIM J. MCGOWAN

This is Exhibit "U" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

From: Karen McNeill [<mailto:kmcneill@harris-sheaffer.com>]
Sent: July-23-15 1:08 PM
To: Tim McGowan <tmcgowan@kw-law.com>; Ari Katz <akatz@harris-sheaffer.com>
Cc: Mary Anne Baldwin <mbaldwin@kw-law.com>
Subject: RE: Mueller purchase from 144 Park Ltd. - 1701 - 144 Park Street, Waterloo

We acknowledge receipt of your letter.

Our client has instructed us to advise you that they cannot confirm that the reallocated spot will be deeded to your client. Your client's vehicle will have to be moved prior to August 10, 2015. If your client's vehicle is not moved by August 10, 2015, the vehicle will be towed at your clients expense. As previously advised, there are not enough parking spots in the building for your client to have two spots permanently. However there may be the option of utilizing one of the temporary spots for a period of time.

Warm regards,

Karen McNeill
Law Clerk
kmcneill@harris-sheaffer.com
direct dial 416.250.3695

HARRIS, SHEAFFER LLP
BARRISTERS & SOLICITORS

Yonge Corporate Centre
4100 Yonge Street, Suite 610, Toronto, ON M2P 2B5

Telephone (416) 250-5800/Facsimile (416) 250-5300
www.harris-sheaffer.com

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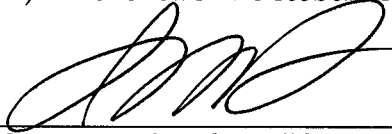
From: Tim McGowan [<mailto:tmcgowan@kw-law.com>]
Sent: Thursday, July 23, 2015 11:59 AM
To: Ari Katz
Cc: Karen McNeill; Mary Anne Baldwin
Subject: Mueller purchase from 144 Park Ltd. - 1701 - 144 Park Street, Waterloo

Please see attached letter.

Tim J. McGowan
Madorin, Snyder LLP
Barristers and Solicitors
55 King Street West, P.O. Box 1234
Kitchener, Ontario N2G 4G9
Phone 519-744-4491; Fax 519-741-8060
E-mail: tmcgowan@kw-law.com

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This is Exhibit "V" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015

A handwritten signature in black ink, appearing to be 'AJM', written over a horizontal line.

Commissioner for Taking Affidavits

From: Tim McGowan <tmcgowan@kw-law.com>
Sent: July-23-15 2:00 PM
To: 'Karen McNeill'; Ari Katz
Cc: Mary Anne Baldwin
Subject: RE: Mueller purchase from 144 Park Ltd. - 1701 - 144 Park Street, Waterloo

Karen, thanks for your response. What section of the APS or the Condo Act is your client relying on to unilaterally take away a parking space contracted for (if it is not to be deeded) ?

Tim J. McGowan
Madorin, Snyder LLP
Barristers & Solicitors
55 King Street West, P O Box 1234
Kitchener, ON, N2G 4G9
Phone 519-744-4491, Fax 519-741-8060
E-mail: tmcgowan@kw-law.com

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This is Exhibit "W" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

From: Sam P. Rappos [<mailto:samr@chaitons.com>]
Sent: August-04-15 4:55 PM
To: Edward Dreyer <edreyer@kw-law.com>
Cc: Tim McGowan <tmcgowan@kw-law.com>; Bryan Tannenbaum <btannenbaum@collinsbarrow.com>; Harvey G. Chaiton <Harvey@chaitons.com>; Ari Katz <akatz@harris-sheaffer.com>; Arif Dhanani <andhanani@collinsbarrow.com>
Subject: RE: Mueller and Coghill re 144 Park Ltd. - Our File 550168

Ted,

The Trustee relies upon, among other things, the wording of the agreements of purchase and sale and terms of the Appointment Order.

There are 149 permanent parking units in the building. I believe the developer sold 156 units to purchasers. So there are insufficient parking units available in the building to convey to existing purchasers, let alone any future purchasers of the unsold units.

I will call you tomorrow to discuss timing of the motion. I expect that the Trustee will be bringing a motion to grant it with the authority to make the proposed reallocations, as this issue impacts purchasers other than your clients.

Thanks.

Sam P. Rappos
Lawyer | Chaitons LLP | T: 416.218.1137

From: Edward Dreyer [<mailto:edreyer@kw-law.com>]
Sent: Tuesday, August 04, 2015 3:21 PM
To: Sam P. Rappos
Cc: Tim McGowan; Bryan Tannenbaum; Harvey G. Chaiton; Ari Katz; Arif Dhanani
Subject: RE: Mueller and Coghill re 144 Park Ltd. - Our File 550168

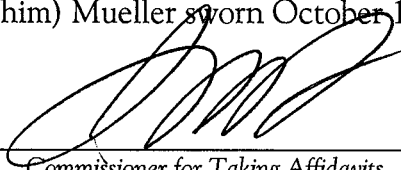
Sam,

This is further to my voicemail. First, what is the basis upon which the trustee is purporting to reallocate the parking spots purchased by my clients to others? Second, you are correct that we will be bringing a motion. Are you available for a hearing on this issue on Friday? Finally, can you clarify that there are sufficient parking spots to close all existing sales agreements for units with two parking spaces if the unsold units are marketed and sold without parking? I believe that is what Bryan Tannenbaum told me this morning.

Ted Dreyer
Madorin, Snyder LLP
Barristers & Solicitors
55 King Street West, P O Box 1234
Kitchener, ON, N2G 4G9
Phone 519-744-4491, Fax 519-741-8060
E-mail: edreyer@kw-law.com

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This is Exhibit "X" referred to in the Affidavit of
AJ (Achim) Mueller sworn October 13, 2015



Commissioner for Taking Affidavits

Collins Barrow Toronto Limited
Collins Barrow Place
11 King Street West
Suite 700, PO Box 27
Toronto, Ontario
M5H 4C7 Canada

August 12, 2015

T. 416.480.0160
F. 416.480.2646

www.collinsbarrow.com

TO: PURCHASERS OF CONDOMINIUM UNITS WITH TWO PARKING UNITS

Dears Sirs/Mesdames:

Re: 144 Park Ltd.

As you know, Collins Barrow Toronto Limited was appointed trustee (the "Trustee") of the 144 Park condominium project on January 22, 2015 pursuant to an Order of the Ontario Superior Court of Justice.

Each of you entered into an agreement of purchase and sale with 144 Park Ltd. to purchase a residential unit and two parking units. As you were previously made aware, there are insufficient parking units available to transfer two parking units to you.

The Trustee has given careful and considerable thought to possible solutions to the parking shortage. The Trustee previously offered you a purchase price reduction of \$33,900 (inclusive of HST) for the return of one parking unit, which offer has not been accepted to date. It has become apparent that there is no circumstance where the Trustee will be in a position to transfer two parking units to you.

The Trustee is bringing a motion on September 2, 2015 to seek the advice and direction of the Court with respect to parking matters. We would like to meet with you to discuss the parking shortage and possible solutions. Details of the date, time and place of the meeting are set out below. We ask that you confirm by return e-mail to andhanani@collinsbarrow.com by 12:00 pm on Monday August 17, 2015 whether you and/or your legal counsel intend to attend the meeting.

Date of Meeting: August 17, 2015

Time: 7:00 pm

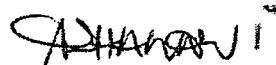
Place: Waterloo Inn
475 King Street North
Waterloo, Ontario, N2J 2Z5

Rosedale Room

Yours truly,

COLLINS BARROW TORONTO LIMITED
in its capacity as Trustee under the Construction Lien Act
of 144 Park and not in its personal or corporate capacity

Per:



Arif Dhanani, CPA, CA, CIRP

From: Arif N. Dhanani <andhanani@collinsbarrow.com>
Sent: August-12-15 12:27 PM
To: Arif N. Dhanani
Subject: 144 Park Ltd. - Notice to Purchasers of Condominium Units with Two Parking Units
Attachments: Notice of Meeting - 08-12-15.pdf

Dear Sirs/Mesdames:

Please see the attached letter from the Court-appointed Trustee of 144 Park.

Yours truly,

COLLINS BARROW TORONTO LIMITED
in its capacity as Trustee under the Construction Lien Act
of 144 Park and not in its personal or corporate capacity

Arif N. Dhanani, *Senior Manager* | Collins Barrow Toronto Limited
T: 647-725-0183 F: 416-480-2646 E: andhanani@collinsbarrow.com
11 King St. W., Suite 700, Box 27, Toronto, Ontario, Canada, M5H 4C7

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IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED
AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD. FOR THE APPOINTMENT OF A TRUSTEE
UNDER SECTION 68(1) OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

Court File No. CV15-10843-00CL

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

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT

DUNCAN, LINTON LLP
Barristers & Solicitors
P.O. Box 457
45 Erb Street East
Waterloo, Ontario
N2J 4B5

Irwin A. Duncan (LSUC #12857G)
e: iad@kwlaw.net
t: (519) 886-3340
f: (519) 886-8651

Lawyers for Richard Magnussen, Marilyn Magnussen,
Joseph Siefried, Susan Siefried, AJ Mueller, Kerry Mueller,
Ryan Cyrankiewicz and Laurie Cyrankiewicz

IN THE MATTER OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED
AND IN THE MATTER OF AN APPLICATION MADE BY 144 PARK LTD. FOR THE APPOINTMENT OF A TRUSTEE
UNDER SECTION 68(1) OF THE CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

Court File No. CV15-10843-00CL

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

PROCEEDING COMMENCED AT TORONTO

RESPONDING RECORD

Re: Parking Matters
Originally Returnable: October 5, 2015
Adjourned To: October 16, 2015

DUNCAN, LINTON LLP
Barristers & Solicitors
P.O. Box 457
45 Erb Street East
Waterloo, Ontario
N2J 4B5

Irwin A. Duncan (LSUC #12857G)
e: iad@kwlaw.net
t: (519) 886-3340
f: (519) 886-8651

Lawyers for Richard Magnussen, Marilyn Magnussen,
Joseph Siefried, Susan Siefried, AJ Mueller, Kerry Mueller,
Ryan Cyrankiewicz and Laurie Cyrankiewicz