

**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
JADE-KENNEDY DEVELOPMENT CORPORATION
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

MOTION RECORD OF THE TRUSTEE
(returnable March 22, 2016)

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**ONTARIO
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**NOTICE OF MOTION
(returnable March 22, 2016)**

COLLINS BARROW TORONTO LIMITED (“CBTL”), in its capacity as Court-appointed *Construction Lien Act* (Ontario) (the “*CLA*”) trustee in this proceeding (the “Trustee”) will make a motion to a Judge of the Commercial List on March 22, 2016 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

- (a) orders:

- (i) abridging the time for service of this notice of motion and the motion record so that the motion is properly returnable on March 22, 2016;
- (ii) approving the Sixth Report of the Trustee dated March 15, 2016 (the “**Sixth Report**”), the Third Report of the Trustee dated June 1, 2015 and the Fourth Report of the Trustee dated October 8, 2015, and the conduct and activities of the Trustee as set out therein;
- (iii) authorizing and approving the execution by the Trustee of the Letters of Credit Documents (as defined below) and granting a first ranking charge over the Cash Collateral (as defined below) in favour of The Toronto-Dominion Bank (“**TD Bank**”) in connection with the issuance of the Replacement Letters of Credit (as defined below);
- (iv) approving the sale by the Trustee of residential condominium suite 1521, along with parking unit 4, level B, and locker unit 330, level B, to Anissa Ling-Ling Yuen (collectively, the “**Purchaser**”), and vesting such property in the Purchaser free and clear of all claims and encumbrances;
- (v) authorizing the Trustee to distribute up to \$1.25 million to Am-Stat Corporation (“**Am-Stat**”) from the net sale proceeds of the Vacant Lands (as defined below), subject to the Trustee maintaining a reserve;
- (vi) approving the fees and disbursements of the Trustee and its counsel Chaitons LLP (“**Chaitons**”); and

- (b) such further and other relief as counsel may request and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Background

1. On February 11, 2015, CBTL was appointed as Trustee under the *CLA* with respect to lands and premises owned by Jade-Kennedy Development Corporation (“**JKDC**”), and legally described in Schedule “A” to the Appointment Order (the “**Property**”), pursuant to the Order of The Honourable Mr. Justice Pattillo dated February 11, 2015 (the “**Appointment Order**”).

2. Pursuant to the Appointment Order, the Trustee was authorized to, among other things:
 - (a) act as receiver and manager of the Property;

 - (b) market any or all of the Property;

 - (c) sell, convey, transfer, lease or assign the Property or any part or parts thereof with the approval of the Court; and

 - (d) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property.

Letters of Credit

3. As at the date of the Trustee’s appointment, eleven irrevocable standby letters of credit (“**LCs**”) had been issued by Laurentian Bank of Canada (“**Laurentian**”) in favour of

three beneficiaries: The Corporation of the City of Markham (“**Markham**”), The Regional Municipality of York (“**York Region**”), and PowerStream.

4. The Trustee retained third party professional consultants and trades to complete the outstanding works that were secured by the LCs.
5. To date, the Trustee has received \$729,442.18 in gross proceed with respect to LCs that have been reduced or fully released by the respective beneficiary.
6. As of February 4, 2016, seven LCs (two in favour of York Region and five in favour of Markham) were outstanding with a total aggregate value of \$2,255,786.52. On February 4, 2016, the Trustee requested that the Markham LCs be reduced by the aggregate amount of \$1,151,890.35 as a result of the completion of necessary work.
7. In December 2015, the Trustee was notified by Laurentian that it did not wish to continue to extend the outstanding LCs as they came up for renewal. The Trustee and Laurentian were able to reach an agreement that resulted in extensions to the expiry dates of the outstanding LCs to either April 30, 2016 or September 15, 2016. The extensions were obtained upon payment of additional fees and costs to Laurentian and with the consent of York Region and Markham.
8. The Trustee has negotiated arrangements with TD Bank to issue letters of credit to replace the seven (7) outstanding Laurentian issued LCs above (collectively, the “**Replacement Letters of Credit**”). The Trustee and TD Bank have entered into the Letter of Credit Indemnity Agreement dated February 29, 2016 that was executed by the Trustee on March 11, 2016, and the letter agreement between the Trustee and TD Bank

dated February 26, 2016 that was accepted by the Trustee on March 11, 2016 (collectively, the “**Letters of Credit Documents**”).

9. Pursuant to the terms of the Letters of Credit Documents, TD Bank requires a first ranking charge on cash collateral to be pledged as security. As of February 11, 2016, the amount of the cash collateral held by Laurentian with respect to the outstanding seven LCs was \$2,258,194.17, including interest of \$4,064.82.
10. The Trustee understands that, in the event that the Court authorizes the Trustee to complete the transaction with TD Bank, the cash collateral held by Laurentian will be turned over to the Trustee once the outstanding LCs have been cancelled, subject to payment of Laurentian’s reasonable fees and costs.
11. TD Bank requires that there be cash collateral in the amount of the face value of the Replacement Letters of Credit (\$2,255,789) plus \$60,000 on account of fees and costs, for a total amount of \$2,315,789 (the “**Cash Collateral**”).
12. The Trustee proposes that, once it receives from Laurentian the amount of \$2,258,194.17 less Laurentian’s reasonable fees, it will deposit that amount along with the additional funds required to reach the amount of the Cash Collateral with TD Bank.
13. It is necessary for the Replacement Letters of Credit to be issued, as Laurentian is not prepared to renew or extend the existing LCs, and if they are not replaced, Markham and York Region will likely draw down on the LCs in full, which may result in none of the outstanding cash collateral being recovered by the Trustee for the benefit of the creditors of JKDC.

Suite 1521 Sale Transaction

14. The Property includes a residential tower known as “The Residences at South Unionville Square” and located at 8323 Kennedy Road, Markham, Ontario. Suite 1521 is a one-bedroom unit, 565 square feet in size.
15. The Trustee retained TradeWorld Realty Inc. (“**TradeWorld**”) to list all unsold residential units, including suite 1521.
16. Based on the advice and recommendation of TradeWorld, suite 1521 was listed at a price of \$289,900 and subsequently reduced to \$284,900.
17. Since May 2015, the Trustee has received five offers for suite 1521 and was unable to complete a sale in connection with the first four offers. The Trustee previously sought and obtained Court approval for the sale of suite 1521 for the purchase price of \$277,500 per residential unit. That sale transaction did not close as the purchaser was not prepared to waive certain closing conditions.
18. The Trustee has entered into the agreement of purchase and sale with the Purchaser with a purchase price of \$281,900.
19. The Trustee believes that suite 1521 has been fairly and properly exposed to the market through the listing by TradeWorld, that all reasonable steps have been taken to obtain the best price possible, and recommends that the sale transaction be approved by the Court, as the purchase price is higher than the previous offer approved by the Court and the offer is unconditional other than with respect to Court approval.

Distribution of Sale Proceeds of Vacant Lands

20. JKDC was the owner of certain vacant lands (the “**Vacant Lands**”) located just south of Phase I and II of the SUSQ project. A street (South Unionville Avenue) and a roundabout separates the SUSQ Project from the Vacant Lands.
21. Prior to the Trustee’s appointment, JKDC had agreed to sell the Vacant Lands to Primont Homes (Harmony) Inc. (“**Primont**”) and perform servicing on the lands. Primont was to build thirteen (13) freehold townhomes and two (2) single detached homes on the lands.
22. JKDC did not complete the servicing under the agreement with Primont and, notwithstanding extensions and amendments, a sale of the Vacant Lands was not completed by JKDC prior to the Trustee’s appointment.
23. As previously reported to the Court, the Trustee was able to negotiate a sale of the Vacant Lands to Primont. The sale of the Vacant Lands by the Trustee to Primont was approved by the Court pursuant to the Approval and Vesting Order of Justice Pattillo dated May 29, 2015.
24. The sale to Primont closed on June 12, 2015. The gross sale proceeds received by the Trustee for the sale of the Vacant Lands were \$1,750,489.
25. As at the closing of the sale of the Vacant Lands, the property was subject to a \$45.0 million charge in favour of Laurentian, a \$10.0 million charge in favour of Am-Stat, and a number of construction liens.
26. The Trustee is of the view that the Vacant Lands were in no way connected to or had any common purpose or use with the Phase I and II condominiums constructed by JKDC.

Other than certain road curb work performed by a trade, no services or materials were supplied to the Vacant Lands by the contractors that supplied services or materials with respect to Phase I and II of the SUSQ Project. There was no intent for the purchasers of the townhomes and houses to be constructed on the Vacant Lands to have any special access to or use of the SUSQ Project.

27. Chaitons has been informed by counsel to Laurentian that the only outstanding obligation secured by the \$45.0 million Laurentian charge is with respect to the outstanding LCs. As a result, in the event the Replacement Letters of Credit are issued and Laurentian's LCs are cancelled, there no longer will be any indebtedness or obligations secured by the \$45.0 million Laurentian charge.
28. JKDC and related companies obtained financing from Am-Stat in the amount of \$10.0 million pursuant to a commitment letter dated August 6, 2013.
29. As security for the financing, JKDC granted a charge/mortgage in the principal amount of \$10.0 million in favour of Am-Stat, which charge/mortgage was registered on title to, among others, the Vacant Lands as Instrument No. YR2029025.
30. Am-Stat has provided a mortgage statement dated as of February 1, 2016 that indicated that it was owed \$5,727,026.36 by JKDC as at that date.
31. Chaitons has reviewed the Am-Stat charge and is of the opinion that, subject to usual assumptions and qualifications, the charge is valid and enforceable against the Vacant Lands and its proceeds.

32. As a result, the Trustee requests that the Court authorize the Trustee to distribute to Am-Stat up to \$1.25 million from the net sale proceeds of the Vacant Lands. The Trustee will continue to hold funds in reserve, as there has yet to be a determination as to the allocation of the costs of these proceedings over all of the Property.

Fees and Disbursements of the Trustee and Chaitons

33. Pursuant to paragraph 18 of the Appointment Order, the Trustee and its counsel are to be paid their reasonable fees and disbursements at their standard rates and charges, incurred both before and after the making of the Appointment Order. Pursuant to paragraph 19 of the Appointment Order, the Trustee and its counsel shall pass their accounts.
34. The total fees for the Trustee for the period from November 18, 2014 to January 31, 2016 were \$674,999.00 plus HST of \$87,749.90 for a total of \$762,748.90. The time spent by the Trustee is more particularly described in the Affidavit of Bryan A. Tannenbaum sworn March 11, 2016, which is attached hereto and marked as **Appendix "I"**. This affidavit contains a summary of the invoices that set out the services provided during this time period.
35. The total fees of Chaitons, as insolvency counsel to Trustee, will be detailed in the Affidavit of Sam Rappos, which will be appended to a supplementary report to be served and filed by the Trustee.

General

36. The Sixth Report.
37. Rules 1.04, 1.05, 2.01, 2.03, and 37 of the *Rules of Civil Procedure* (Ontario).

38. Section 68 of the *CLA*.
39. The equitable and inherent jurisdiction of the Court.
40. Such other grounds as counsel may advise and this Honourable Court may permit.

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

1. The Sixth Report and the Appendices annexed thereto; and
2. such further and other material as counsel may advise and this Honourable Court may permit.

March 22, 2016

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Proceedings commenced at Toronto

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Court File No. CV-15-10882-00CL

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**SIXTH REPORT TO THE COURT OF COLLINS BARROW TORONTO LIMITED AS
CONSTRUCTION LIEN TRUSTEE OF SOUTH UNIONVILLE SQUARE**

MARCH 15, 2016

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Appendix "A" - Appointment Order dated February 11, 2015

Appendix "B" - Trustee's interim statement of receipts and disbursements for the period from February 11, 2015 to March 4, 2016

Appendix "C" - Trustee's letter to The City of Markham dated February 4, 2016

Appendix "D" - Letters of Credit Documents

Appendix "E" - Chart of Construction Lien Claimants

Appendix "F" - Order dated May 1, 2015

Appendix "G" - Chaitons letter dated March 15, 2016

Appendix "H" - Agreement of Purchase and Sale re Suite 1521

Appendix "I" - Affidavit of Bryan A. Tannenbaum sworn March 11, 2016

INTRODUCTION

1. By Order of The Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated February 11, 2015 (the "**Appointment Order**"), Collins Barrow Toronto Limited was appointed trustee (the "**Trustee**") pursuant to section 68(1) of the *Construction Lien Act* (Ontario) (the "**CLA**"), of the lands and premises legally described in Schedule "A" of the Appointment Order comprised of commercial and residential condominium units, parking and locker units, and vacant lands owned by Jade-Kennedy Development Corporation ("**JKDC**") (the "**Property**"). A copy of the Appointment Order is attached hereto as **Appendix "A"**.
2. The Appointment Order authorized the Trustee to, among other things, act as receiver and manager of the Property, take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, market any or all of the Property, and sell, convey, transfer, lease or assign the Property or any part or parts thereof with the approval of the Court.
3. Publicly available information relating to this proceeding has been posted on the Trustee's website, which can be found at:

<http://www.collinsbarrow.com/en/cbn/jade-kennedy-development-corporation>

PURPOSE OF SIXTH REPORT

4. The purpose of this Sixth Report of the Trustee (the "**Sixth Report**") is to:
- (a) report to the Court on the Trustee's activities since April 23, 2015, being the date of the Trustee's First Report to the Court;
 - (b) provide the Court with an interim statement of the Trustee's receipts and disbursements for the period from February 11, 2015 to March 4, 2016;
 - (c) provide the Court with an update with respect to the lien claims process conducted by the Trustee pursuant to the Order of Justice Pattillo dated May 1, 2015;
 - (d) request that the Court grant orders:
 - (i) approving this Sixth Report, the Third Report of the Trustee dated June 1, 2015 and the Fourth Report of the Trustee dated October 8, 2015, and the conduct and activities of the Trustee described therein;
 - (ii) authorizing and approving the execution by the Trustee of the Letters of Credit Documents (as defined below) and granting a first ranking charge over the Cash Collateral (as defined below) in favour of The Toronto-Dominion Bank ("**TD Bank**") in connection with the issuance of the Replacement Letters of Credit (as defined below);

- (iii) approving the sale by the Trustee of residential condominium suite 1521, along with parking unit 4, level B, and locker unit 330, level B, to Anissa Ling-Ling Yuen (the "**Purchaser**"), and vesting such property in the Purchaser free and clear of all claims and encumbrances;
- (iv) authorizing the Trustee to distribute up to \$1.25 million to Am-Stat Corporation ("**Am-Stat**") from the net sale proceeds of the Vacant Lands (as defined below), subject to the Trustee maintaining a reserve; and
- (v) approving the fees and disbursements of the Trustee and its counsel Chaitons LLP ("**Chaitons**"), as set out in the Sixth Report and the fee affidavits attached as appendices hereto and to the Trustee's supplementary report to be served and filed.

TERMS OF REFERENCE

5. In preparing this Sixth Report and making the comments herein, the Trustee has relied upon unaudited financial information, the books and records of JKDC, discussions with management and employees of JKDC and other companies within the MADY group of companies, and information received from other third-party sources (collectively, the "**Information**"). Certain of the information contained in this Sixth Report may refer to, or is based on, the Information. As the Information has been provided by JKDC or other parties, the Trustee has relied on the Information and, to the extent possible, reviewed the Information for

reasonableness. However, the Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance in respect of the Information.

BACKGROUND

6. JKDC is an Ontario corporation that was incorporated on January 30, 2008 and has its registered office located in Markham, Ontario. JKDC was incorporated for the purpose of being the registered owner of the Property and developer of the South Unionville Square condominium project (the "**SUSQ Project**") to be constructed on certain portions of the Property, which is located in Markham, Ontario.
7. JKDC sought the appointment of the Trustee as it was insolvent, contractors had registered construction lien claims against title to the Property, and the appointment was necessary to complete the closing of certain pre-sold commercial/retail units, market and sell the unsold Property, and distribute the sale proceeds pursuant to a Court order.
8. The SUSQ Project was to be developed and constructed by JKDC in three phases, as described below.

Phase I

9. Phase I of the SUSQ Project was the development and construction of 28 residential townhomes, a T&T Supermarket, and a commercial condominium project with units for retail, restaurant, office and medical services. The mall is known as "The Mall at Langham Square" and is located at 8339 Kennedy Road, Markham, Ontario.
10. Construction of Phase I was substantially completed on March 5, 2013 and the condominium declaration was registered on April 17, 2013, which established York Region Standard Condominium Corporation No. 1228 ("**YRSCC No. 1228**"). YRSCC 1228 is managed by PH Property Management & Consulting Inc. ("**PH Property**").
11. As of the date of the Appointment Order, all of the townhomes had been sold and there were twenty-two (22) unsold commercial/retail, kiosk and mall units, and four (4) unsold parking units that are only accessible to the residents of the townhomes.
12. Pursuant to Approval and Vesting Orders granted by Justice Pattillo dated October 16, 2015, the Court approved the sale of three kiosk commercial units (legally known as units 73, 74 and 75 on level 1) (collectively, the "**Kiosks**") and a commercial/retail unit (legally known as unit 60, level 1, and commonly known as suite 1077) ("**Unit 60**").
13. The sale of the Kiosks closed on October 21, 2015. The gross sale proceeds received by the Trustee for the Kiosks were \$88,504.70.

14. The sale of Unit 60 closed on October 30, 2015. The gross sale proceeds received by the Trustee for Unit 60 were \$800,000.
15. As a result, there remains 18 Phase I commercial units and the four parking units to be sold by the Trustee.
16. As previously reported to the Court, the Trustee has retained TradeWorld Realty Inc. ("**TradeWorld**") to list all unsold Property for sale, other than the four parking units referenced above and the Vacant Lands, pursuant to a listing agreement dated May 4, 2015. This listing agreement is presently scheduled to end on July 31, 2016. The Trustee is attempting to find purchasers for the parking units.

Phase II

17. Phase II of the SUSQ Project involved the development and construction of a 12-storey condominium-apartment tower, which contains 253 residential units and 312 parking units. There are also twenty one (21) commercial/retail units located underneath the residential tower (collectively, the "**Phase II Commercial Units**").

Residential

18. Phase II was constructed in two stages. The first stage was the development and construction of the residential tower. Construction was substantially completed on June 10, 2014 and the condominium declaration was registered on September 11, 2014, which established York Region Standard Condominium Corporation No. 1265 ("**YRSCC No. 1265**"). The residential tower is now managed by DUKA Property Management and was previously managed by First Service Residential until January 18, 2016.

19. The residential tower is known as "The Residences at South Unionville Square" and is located at 8323 Kennedy Road, Markham, Ontario.
20. As at the Trustee's appointment, there were six residential units (suites 117, 218, 827, 1216, 1521 and 1527), eight parking units and six locker units that were still owned by JKDC.
21. Jade-Kennedy Residential Corporation ("**JKRC**"), a party related to JKDC, had entered into sale agreements with respect to suites 827, 1216, 1521 and 1527 for no cash consideration with parties who had provided construction services in respect of some of the Property. The parties had agreed to acquire the suites by setting off amounts due to them by JKDC.
22. Pursuant to the Order of Justice Pattillo dated May 1, 2015, the Trustee was authorized by the Court to terminate such sale agreements, which the Trustee did on May 4, 2015.
23. JKRC had also entered into sale agreements with respect to suites 117 and 218 just prior to the commencement of this proceeding. The Trustee brought a motion before the Court seeking the authority to terminate these sale agreements, as in the Trustee's view they represented sales at below market value.
24. Pursuant to the Order of Justice Pattillo dated June 4, 2015, the Trustee was authorized by the Court to terminate such sale agreements, which the Trustee

did on June 16, 2015. The Trustee returned the deposits received from these prospective purchasers.

25. The Trustee brought a motion seeking Court approval of sale transactions for suites 1521 and 1527, along with parking and locker units, on December 23, 2015. Pursuant to Approval and Vesting Orders of Justice Pattillo dated December 23, 2015, the Court approved these sale transactions. However, these sale transactions did not close as the purchasers were not prepared to waive certain closing conditions.

Phase II Commercial Units

26. The second stage of the development and construction of Phase II was with respect to the Phase II Commercial Units, which are municipally known as 8321 Kennedy Road, Markham, Ontario. On January 16, 2015, the registered owner of the land where the Phase II Commercial Units were located was transferred from JKDC to YRSCC 1228, which is the condominium corporation for the Phase I development. As a result, the Phase II Commercial Units now form part of YRSCC 1228 and therefore are managed by PH Property.
27. As of the date of the Appointment Order, eighteen (18) of the 21 Phase II Commercial Units were subject to existing agreements of purchase and sale and were scheduled to close on February 17, 2015.
28. Pursuant to the Appointment Order, the Trustee was authorized to complete the existing agreements of purchase and sale for the 18 pre-sold Phase II Commercial Units.

29. The Trustee was able to close the sale transactions for 16 of the 18 Phase II Commercial Units. The remaining two sale transactions did not close due to purchaser defaults, and accordingly the sale transactions were terminated by the Trustee and the deposits were not returned to the prospective purchasers.
30. The gross sale proceeds received by the Trustee for the 16 Phase II Commercial Units were \$3,717,421.84.

Phase III

31. Phase III was to be the planned development and construction of thirteen (13) freehold townhomes and two (2) single detached homes on vacant lands owned by JKDC (the "**Vacant Lands**"). The Vacant Lands are just south of Phases I and II of the SUSQ Project.
32. Although commonly referred to as Phase III of the SUSQ Project, the Trustee understands that there was to be no connection or common purpose between the Phase I and II condominium units and the freehold townhomes and detached homes to be constructed on the Vacant Lands. A street (South Unionville Avenue) and a roundabout separates the SUSQ Project from the Vacant Lands. There was no intent for the purchasers of the townhomes and houses to be constructed on the Vacant Lands to have any special access to or use of the SUSQ Project.
33. JKDC and the MADY Group did not intend to build the homes to be situated on the Vacant Lands. JKDC had entered into an agreement of purchase and sale for the Vacant Lands with Primont Homes (Harmony) Inc. ("**Primont**") in

November 2011 and was to complete the servicing requirements for the Vacant Lands. JKDC did not complete the servicing under the agreement with Primont and, notwithstanding extensions and amendments, a sale of the Vacant Lands was not completed by JKDC prior to the Trustee's appointment.

34. Following its appointment, the Trustee was able to negotiate a sale of the Vacant Lands to Primont. As set out in the Second Report dated May 15, 2015 (the "**Second Report**") and the Supplement to the Second Report dated May 26, 2015 (the "**Supplementary Report**"), copies of which can be found on the Trustee's website, the sale negotiated by the Trustee resulted in an increase of approximately \$1.1 million in the purchase price paid by Primont as compared to the last offer Primont made to JKDC to purchase the Vacant Lands on an "as is, where is" basis.
35. The sale of the Vacant Lands by the Trustee to Primont was approved by the Court pursuant to the Approval and Vesting Order of Justice Pattillo dated May 29, 2015.
36. The sale to Primont closed on June 12, 2015. The gross sale proceeds received by the Trustee for the sale of the Vacant Lands were \$1,750,489.

TRUSTEE'S ACTIVITIES SINCE THE FIRST REPORT

37. As noted above, the Trustee was appointed by the Court on February 11, 2015. Since its appointment, the Trustee has filed with the Court the First Report dated April 23, 2015, the Second Report, the Supplementary Report, the Third Report dated June 1, 2015 (the "**Third Report**"), the Fourth Report dated October 8,

2015 (the "**Fourth Report**"), and the Fifth Report dated December 18, 2015 (the "**Fifth Report**"). Copies of these reports, with appendices, can be found on the Trustee's website.

38. The First Report, the Second Report, the Supplementary Report and the Fifth Report, and the conduct and activities of the Trustee set out therein, were respectively approved by the Court pursuant to Orders granted by Justice Pattillo on May 1, May 29, and December 23, 2015.
39. As a result, the Trustee is seeking approval of this Sixth Report, along with the Third Report and the Fourth Report, at this time.
40. The Trustee has undertaken the following activities in accordance with the terms of the Appointment Order since the date of the First Report:
 - (a) attending to all matters necessary to sell the Vacant Lands to Primont as set out in the Second Report and the Supplementary Report;
 - (b) attending to all matters necessary to terminate the sale of two agreements of purchase and sale for residential suites 117 and 218 as set out in the Third Report;
 - (c) attending to all matters in connection with the sale and closing of the Kiosk Units and Unit 60 as set out in the Fourth Report;
 - (d) attending numerous calls with Chaitons and the Trustee's condominium law counsel, Harris Sheaffer LLP ("**Harris Sheaffer**"), regarding the

Trustee's motions with respect to matters detailed in the Second Report, the Third Report, the Fourth Report, and the Fifth Report;

- (e) attending numerous site meetings with JKDC's senior service manager and several third party consultants to review various issues, including items related to warranty coverage of Tarion Warranty Corporation ("Tarion") and the status of work in progress;
- (f) doing all things necessary to approve and pay for ongoing costs related to the units available for sale, including insurance, occupancy fees, and property taxes;
- (g) doing all things necessary to rectify Tarion warranted in-suite and common area deficiencies, including approving quotes for services and materials, discussing specific issues with on-site personnel and facilitating payments, as appropriate, to trades and consultants;
- (h) attending to voluminous discussions and emails with the property managers for the Phase I and Phase II commercial and residential units regarding repairs, maintenance and other issues;
- (i) attending to numerous discussions, emails and meetings with representatives of Tarion and YRSCC No. 1228 regarding satisfactory completion of the common element Performance Audit deficiencies required under Tarion's Builder's Bulletin 49 related to the Phase I

townhomes and parking units in order to release the Phase I bond issued by Aviva Insurance Company of Canada ("**Aviva**") in favour of Tarion;

- (j) coordinating work required to obtain clearance certificates under Tarion's Builder's Bulletin 19 ("**BB19**") related to the Phase II residential condominium units, including retaining third party consultants to review and approve works completed by trades in accordance with site plan, construction and other agreements, and meeting with Construction Control Inc. ("**CCI**"), all in order to obtain a reduction in the Phase II surety bond issued by Aviva in favour of Tarion;
- (k) attending meetings with Tarion representatives and requesting a reduction in the bond value assigned to the Phase II residential condominiums;
- (l) interviewing and retaining Masongsong Associates Engineering Ltd. ("**Masongsong**") to assist the Trustee in its oversight of the requisite work required to fulfill obligations to The Corporation of the City of Markham ("**Markham**"), The Regional Municipality of York ("**York Region**"), and PowerStream in order to obtain reductions/releases of the letters of credit (collectively, "**LCs**" or individually, an "**LC**") issued by Laurentian Bank of Canada ("**Laurentian**") totalling \$3,038,273.54 as at the date of the Appointment Order;
- (m) doing all things necessary to coordinate repairs and the completion of outstanding work in order to comply with obligations to Markham, York

Region and PowerStream, as set out in various agreements and supported by the LCs;

- (n) obtaining a full release or reduction to the maintenance amount for all of the outstanding York Region LCs, the PowerStream LC and only one of the Markham LCs;
- (o) working with its engineering consultants to finalize all documentation required by Markham including meetings, correspondence and preparing applications for reductions in the outstanding LCs of \$1,151,890.35 on February 4, 2016 and an estimated \$151,518.60 in early May 2016;
- (p) ongoing discussions and emails with Laurentian regarding LC issues including the extension of certain LCs and payment of net funds to the Trustee as LCs are cancelled or reduced to maintenance levels;
- (q) attending the opening of the sealed bids for the tender for engineering works required under various Markham LCs at Masongsong's offices;
- (r) extending the listing agreements with TradeWorld for unsold units at the Property to July 31, 2016;
- (s) engaging in ongoing discussions and emails with TradeWorld representatives to review numerous offers received and obtaining market updates;

- (t) drafting and sending letters to all Phase I townhome owners offering four available townhome parking units for sale;
- (u) sending demand letters to a purchaser of a Phase I commercial unit in connection with a \$34,982.13 promissory note issued in favour of JKDC relating to the closing of the sale, and responding to that purchaser's position;
- (v) demanding payment in connection with a \$200,000 mortgage for unit 50, level 1, a property management office located in Phase I, granted by YRSCC 1228 as owner of the unit in favour of JKDC;
- (w) determining and receiving an unrecorded \$212,125.30 refund owing from PowerStream related to a difference in estimated consumption rates from the amount initially estimated;
- (x) engaging in ongoing discussions and emails with Tarion representatives to approve, pay and provide proof of payment to owners entitled to receive delayed occupancy payments from the Trustee;
- (y) attending to numerous calls and requests with mortgagees, including Laurentian, who requested that monthly status reports be given to them by the Trustee;
- (z) reviewing and discussing with Canada Revenue Agency ("CRA") its correspondence notifying the Trustee of its intention to examine the Trustee's Harmonized Sales Tax ("HST") returns and supporting

documentation thereto for the months of August, September and October 2015 and doing all things necessary to assemble the information requested by CRA and release it to them;

- (aa) reviewing and approving documentation from prospective purchasers;
- (bb) reviewing lien claims and supporting documentation from lien claimants, comparing information submitted to the books and records of JKDC, preparing a reconciliation and providing documentation in support of JKDC's position to the lien claimants;
- (cc) responding to various enquiries from unsecured creditors;
- (dd) paying property tax bills received for unsold units;
- (ee) drafting materials for this Sixth Report and reviewing, amending and discussing same with Chaitons;
- (ff) attending to all matters necessary to obtain Court approval to conduct a property claims process, as approved by the Court in the Property Claims Procedure Order dated December 23, 2015, and to conduct such process, as set out in the Fifth Report;
- (gg) posting the Vesting Orders and other required documentation to the Trustee's website; and
- (hh) doing all other things necessary with respect to the Trustee's mandate under the Appointment Order and the *CLA*.

Repairs, Maintenance and Third Party Consultants

41. As noted in the First Report, the Trustee had retained Mr. A. Hanoman, JKDC's former senior service manager, as a consultant to manage on site repairs required to be completed to meet health and safety standards, in accordance with Tarion's performance audits, and to comply with obligations set out under numerous agreements in place with Markham and York Region and supported by LCs issued by Laurentian. Mr. Hanoman gave his notice of resignation effective January 15, 2016.
42. In addition, in order to obtain clearance certificates required for Tarion's BB 19 report related to the Phase II residential condominium units, the Trustee re-engaged former consultants retained by JKDC: SNC Lavalin as the engineering consultant, Turner Fleischer Architects Inc. as the architectural consultant and MHBC Planning Inc. as the landscape architect consultant.
43. The Trustee also retained Masongsong as its engineering consultant to manage the works required to be completed under agreements in place with Markham and York Region under the respective LCs. The Trustee's dealings with Laurentian and the municipalities is discussed in further detail below.
44. As at March 4, 2016, the Trustee has paid \$1,001,999.81 to various trades and \$232,657.31 to third party consultants as indicated on the Trustee's interim statement of receipts and disbursements for the period from February 11, 2015 to March 4, 2016 (the "**R&D Statement**"), which is attached hereto as **Appendix "B"**.

LETTERS OF CREDIT

45. As noted in the First Report, JKDC was required to arrange for the issuance of LCs in favour of Markham, York Region and PowerStream in connection with JKDC's obligations to complete certain works pursuant to site plan, construction and other agreements.
46. JKDC arranged for its senior lender, Laurentian, to issue the required LCs, and JKDC posted cash collateral with Laurentian in support of the LCs.
47. As at the date of the Trustee's appointment, the following eleven irrevocable standby LCs with a total aggregate value of \$3,038,273.54 were outstanding:

Beneficiary	Reference No.	Amount
York Region	S600579	\$359,100.00
	S600723	\$196,812.00
	S601070	\$182,448.00
Markham	S600796	\$1,589,573.21
	S601064	\$455,896.11
	S601065	\$83,950.00
	S601067	\$20,000.00
	S601069	\$15,000.00
	S601113	\$25,000.00 ¹
	S601151	\$90,594.00

¹ This amount excludes \$2,077,408.07 that was drawn by Markham on January 21, 2015, just prior to the appointment of the Trustee.

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Beneficiary	Reference No.	Amount
PowerStream	S601063	\$19,900.22
TOTAL		\$3,038,273.54

48. As noted above, the Trustee retained third party professional consultants and trades to complete the outstanding works in order to obtain the required certifications as expeditiously as possible.
49. As detailed in the R&D Statement, to date the Trustee has received \$729,442.18 in gross LC proceeds (includes accrued interest of \$37,549.16) with respect to LCs S601063, S601070, S600723, S600579 and S601069.
50. LCs S600723, S601069 and S601063 have been fully released. Markham fully drew down on LC S601151 in the amount of \$90,594 on or about May 8, 2015, which LC related to the Vacant Lands sold to Primont. The Trustee is currently reviewing documentation relating to Markham's authority to draw down this LC.
51. As a result, as of February 4, 2016, the following seven LCs were outstanding with a total aggregate value of \$2,255,786.52:

Beneficiary	Reference No.	Amount
York Region	S600579	\$54,000.00
	S601070	\$27,367.20
Markham	S600796	\$1,589,573.21
	S601064	\$455,896.11

	S601065	\$83,950.00
	S601067	\$20,000.00
	S601113	\$25,000.00
TOTAL		\$2,255,786.52

52. The two outstanding LCs in favour of York Region (as noted in paragraph 51 above) have been reduced to the maintenance amounts that are required to remain in place for two years. With respect to Markham, on February 4, 2016, the Trustee requested that the LCs be reduced by the aggregate amount of \$1,151,890.35 as a result of the completion of necessary work. A copy of the Trustee's letter to Markham, without attachments, is attached hereto as **Appendix "C"**.

53. While the Trustee has not yet received a written response from Markham in connection with its LC reduction request, based on Masongsong's view, the Trustee believes that it has complied with all of the requisite documentation requirements to reduce the amounts of the required LCs.

Replacement Letters of Credit

54. As noted above, Laurentian issued the outstanding LCs in favour of Markham and York Region. In December 2015, the Trustee was notified by Laurentian that it did not wish to continue to extend the outstanding LCs as they came up for renewal. The Trustee and Laurentian were able to reach an agreement that resulted in extensions to the expiry dates of the outstanding LCs to either April

30, 2016 or September 15, 2016. The extensions were obtained upon payment of additional fees and costs to Laurentian and with the consent of York Region and Markham.

55. As part of the LC extension agreement, Laurentian required that the Trustee enter into a binding commitment with a financial institution to replace the outstanding LCs by March 22, 2016, which would result in the outstanding LCs with Laurentian being replaced by no later than April 30, 2016.
56. The Trustee has negotiated arrangements with TD Bank to issue letters of credit to replace the seven (7) Laurentian issued LCs referred to in paragraph 51 above (collectively, the "**Replacement Letters of Credit**"). The Trustee and TD Bank have entered into the Letter of Credit Indemnity Agreement dated February 29, 2016 that was executed by the Trustee on March 11, 2016, and the letter agreement between the Trustee and TD Bank dated February 26, 2016 that was accepted by the Trustee on March 11, 2016 (collectively, the "**Letters of Credit Documents**"). Copies of the Letters of Credit Documents are collectively attached hereto as **Appendix "D"**.
57. Pursuant to the terms of the Letters of Credit Documents, TD Bank requires a first ranking charge on cash collateral to be pledged as security. As of February 11, 2016, the amount of the cash collateral held by Laurentian with respect to the outstanding LCs was \$2,258,194.17, including interest of \$4,064.82.
58. The Trustee understands that, in the event that the Court authorizes the Trustee to complete the transaction with TD Bank, the cash collateral held by Laurentian

will be turned over to the Trustee once the outstanding LCs have been cancelled, subject to payment of Laurentian's fees and costs.

59. TD Bank requires that there be cash collateral in the amount of the face value of the Replacement Letters of Credit (\$2,255,789) plus \$60,000 on account of fees and costs, for a total amount of \$2,315,789 (the "**Cash Collateral**").
60. The Trustee proposes that, once it receives from Laurentian the amount of \$2,258,194.17 less Laurentian's fees, it will deposit that amount along with the additional funds required to reach the amount of the Cash Collateral with TD Bank.
61. It is necessary for the Replacement Letters of Credit to be issued, as Laurentian is not prepared to renew or extend the existing LCs, and if they are not replaced, Markham and York Region will likely draw down on the LCs in full, which may result in none of the outstanding cash collateral being recovered by the Trustee for the benefit of the creditors of JKDC.
62. Accordingly, the Trustee recommends that the Court approve the execution of the Letters of Credit Documents and grant a first ranking charge in favour of TD Bank over the Cash Collateral.

SALE PROCEEDS FOR KIOSKS AND UNIT 60

63. As noted above, the Trustee received gross sale proceeds of \$88,504.70 for the Kiosks and \$800,000 for Unit 60.

64. After payment of \$40,092.40 in real estate commissions and \$2,485.66 of legal fees for Harris Sheaffer, net proceeds of \$83,204.49 for the Kiosks and \$762,722.15 for Unit 60 were received by the Trustee.
65. The Kiosks were each subject to a condominium lien in favour of YRSCC No. 1228 for unpaid common expenses in the amount of \$1,981.53. The Kiosks were also subject to a \$30.0 million charge in favour of Aviva, and construction liens registered by Guest Tile Inc. ("**Guest Tile**") and Draglam Waste & Recycling Inc. ("**Draglam**").
66. In accordance with the Order (re Lien Claims Process) of Justice Pattillo dated May 1, 2015, Chaitons has reviewed the condominium liens registered by YRSCC No. 1228 with respect to the Kiosks and is in discussions with counsel to YRSCC No. 1228 as to the validity of the lien and, if valid, the amounts secured by the lien.
67. With respect to Unit 60, that unit was subject to the following encumbrances:
 - (a) a condominium lien in favour of YRSCC 1228 for unpaid common expenses in the amount of \$34,084.62;
 - (b) a \$30.0 million Aviva charge;
 - (c) a \$3.6 million Laurentian collateral charge with respect to indebtedness owed to Laurentian by 144 Park Ltd., a company in the MADY group;

- (d) a \$2.4 million Laurentian collateral charge;²
- (e) an \$8.0 million charge in favour of MarshallZehr Group Inc.; and
- (f) construction liens in favour of Guest Tile and Draglam.

68. Chaitons has reviewed the condominium lien registered by YRSCC No. 1228 with respect to Unit 60 and is in discussions with counsel to YRSCC No. 1228 as to the validity of the lien and, if valid, the amounts secured by the lien.

69. With respect to Aviva's charge over Unit 60 and the Kiosks, the Trustee is currently in discussions with Aviva regarding the scope and amount of obligations secured by its charge, as the Trustee, after expending significant time and effort, recently received confirmation from Tarion that that bond issued by Aviva with respect to the Phase II residential tower was reduced from \$5,018,135 to \$2,500,000. The Trustee hopes to be in a position to report to the Court on this issue and seek Court authority to make an additional distribution from the net sale proceeds of Unit 60 in the near future.

DISTRIBUTIONS OF VACANT LANDS PROCEEDS TO AM-STAT

70. As noted above, the Trustee received gross sale proceeds of \$1,750,489 with respect to the sale of the Vacant Lands to Primont.

² Counsel to Laurentian has confirmed that there is no outstanding indebtedness or obligations that are secured by this charge.

71. As at the closing of the sale of the Vacant Lands, the property was subject to a \$45.0 million charge in favour of Laurentian, a \$10.0 million charge in favour of Am-Stat, and a number of construction liens.
72. As noted above, the Vacant Lands, while often referred to as Phase III of the SUSQ Project, were in no way connected to or had any common purpose or use with the Phase I and II condominiums constructed by JKDC. Other than certain road curb work performed by a trade, no services or materials were supplied to the Vacant Lands by the contractors that supplied services or materials with respect to Phase I and II of the SUSQ Project.
73. Chaitons has been informed by counsel to Laurentian that the only outstanding obligation secured by the \$45.0 million Laurentian charge is with respect to the outstanding LCs. As a result, in the event the Replacement Letters of Credit are issued and Laurentian's LCs are cancelled, there no longer will be any indebtedness or obligations secured by the \$45.0 million Laurentian charge.
74. JKDC and related companies obtained financing from Am-Stat in the amount of \$10.0 million pursuant to a commitment letter dated August 6, 2013.
75. As security for the financing, JKDC granted a charge/mortgage in the principal amount of \$10.0 million in favour of Am-Stat, which charge/mortgage was registered on title to, among others, the Vacant Lands as Instrument No. YR2029025.

76. Am-Stat has provided a mortgage statement dated as of February 1, 2016 that indicated that it was owed \$5,727,026.36 by JKDC as at that date.
77. Chaitons has reviewed the Am-Stat charge and is of the opinion that, subject to usual assumptions and qualifications, the charge is valid and enforceable against the Vacant Lands and its proceeds.
78. As a result, the Trustee requests that the Court authorize the Trustee to distribute to Am-Stat up to \$1.25 million from the net sale proceeds of the Vacant Lands. The Trustee will continue to hold funds in reserve, as there has yet to be a determination as to the allocation of the costs of these proceedings over all of the Property.

CONSTRUCTION LIEN CLAIMS PROCESS

79. Construction liens totalling approximately \$3.6 million had been registered against the Property. Attached hereto as **Appendix "E"** is a chart that sets out the eighteen (18) parties (collectively, the "**Construction Lien Claimants**") that registered construction liens against the Property, and the amount of each lien.
80. Pursuant to the Order (re Lien Claims Process) of Justice Pattillo dated May 1, 2015, the Trustee is to implement and administer a lien claims process with respect to condominium liens and with respect to construction liens (the "**Construction Lien Claims Process**"). A copy of the Order made on May 1, 2015 is attached hereto as **Appendix "F"**.

81. In accordance with the Construction Lien Claims Process, the Trustee has received documentation with respect to the construction liens of each of the Construction Lien Claimants.
82. The Trustee and Chaitons have reviewed the claims filed by the Construction Lien Claimants pursuant to the Construction Lien Claims Process. The Trustee has discussed the quantum of each claim with former employees of JKDC to confirm whether the amounts claimed by the Construction Lien Claimants were consistent with the amounts set out in JKDC's books and records.
83. Based on such review, the Trustee has determined that each of the Construction Lien Claimants entered into a contract directly with JKDC, and there was no general contractor with respect to the JKDC project.
84. The Trustee has been advised by Chaitons that, pursuant to section 22 of the *CLA*, JKDC was required to maintain a holdback for each Construction Lien Claimant of ten per cent (10%) of the price of services and materials as they were actually supplied by each Construction Lien Claimant. The Trustee understands that, as of the date of its appointment, there were no funds held by JKDC or Laurentian with respect to holdback amounts.
85. The Trustee has also been advised by Chaitons that, pursuant to section 78(2) of the *CLA*, a properly perfected construction lien has priority over mortgagees of the Property to the extent of any deficiency in the holdbacks that JKDC was required to retain under the *CLA*.

86. As noted above and in the R&D Statement, the Trustee has realized gross proceeds from the sale of the 16 Phase II Commercial Units, the Vacant Lands, the Kiosks and Unit 60.
87. As discussed above, the Trustee is of the view that the construction liens registered against the Vacant Lands do not entitle the Construction Lien Claimants to the proceeds of the Vacant Lands.
88. With respect to the Kiosks and Unit 60, only two Construction Lien Claimants registered construction liens against such property, being Guest Tile and Draglam. The Trustee is not seeking Court approval to distribute any of the net sale proceeds of the Kiosks and Unit 60 to any party at this time.
89. With respect to the 16 Phase II Commercial Units, sixteen of the eighteen Construction Lien Claimants registered a construction lien against all or part of that property. Based on a review of the information provided date, it is not clear what services or materials were supplied with respect to the Phase II Commercial Units and what were supplied to residential units in the residential tower and to the common spaces. The Trustee understands that, at the time of the closing of the sale transactions, the 16 Phase II Commercial Units were primarily "shells" that only had basic electrical, plumbing, drywall, concrete and window work completed.
90. As set out in a letter from Chaitons to counsel to the Construction Lien Claimants dated March 15, 2016, a copy of which is attached hereto as **Appendix "G"**, the Trustee has requested additional information from each of the lien claimants to

identify the services and materials they provided by phase and whether it was residential or commercial. The Trustee is in the process of scheduling a hearing date for the beginning of April 2016 to deal with the issue of distributions to Construction Lien Claimants.

SALE OF SUITE 1521

91. Pursuant to paragraphs 3(k) through (m) of the Appointment Order, the Trustee was authorized by the Court to market the Property, sell the Property with the approval of the Court, and to apply for vesting orders necessary to convey the Property free and clear of all claims and encumbrances affecting the Property.
92. Pursuant to paragraph 3(d) of the Appointment Order, the Trustee was authorized by the Court to engage agents to assist with the exercise of the Trustee's powers and duties.
93. As noted above, the Trustee has retained TradeWorld as its listing agent. Based on the advice and recommendation of TradeWorld, suite 1521 was included in the listing agreement at an initial price of \$289,900 that was reduced to \$284,900 in January, 2016. Suite 1521 is a one-bedroom unit, 565 square feet in size.
94. Since May 2015, the Trustee has received five offers for suite 1521 and was unable to complete a sale in connection with the first four offers. The fifth offer received by the Trustee is from the Purchaser with a purchase price of \$281,900, as set out in the agreement of purchase and sale executed by the Purchaser on March 5, 2016 that was accepted by the Trustee on March 8, 2016. A copy of

the agreement of purchase and sale is attached hereto and marked as **Appendix "H"**.

95. Suite 1521 is subject to the following encumbrances:
- (a) a condominium lien in favour of YRSCC 1265;
 - (b) a \$16.5 million charge in favour of Aviva;
 - (c) a \$10.0 million Am-Stat charge; and
 - (d) construction liens.
96. In the event that the sale transaction is approved by the Court and closes, the Trustee will hold the net sale proceeds subject to further Order of the Court.
97. The Trustee believes that suite 1521 has been fairly and sufficiently exposed to the market through the listing by TradeWorld, that all reasonable steps have been taken to obtain the best price possible, and recommends that the sale transaction be approved by the Court, as:
- (a) the purchase price is higher than the previous offer approved by the Court; and
 - (b) the offer is unconditional other than with respect to Court approval.
98. If the Court approves the sale transaction, it is scheduled to close on April 28, 2016.

FEES AND DISBURSEMENTS OF THE TRUSTEE AND ITS COUNSEL

99. Pursuant to paragraph 18 of the Appointment Order, the Trustee and its counsel are to be paid their reasonable fees and disbursements at their standard rates and charges, incurred both before and after the making of the Appointment Order. Pursuant to paragraph 19 of the Appointment Order, the Trustee and its counsel shall pass their accounts.
100. The total fees for the Trustee for the period from November 18, 2014 to January 31, 2016 were \$674,999.00 plus HST of \$87,749.90 for a total of \$762,748.90. The time spent by the Trustee is more particularly described in the Affidavit of Bryan A. Tannenbaum sworn March 11, 2016, which is attached hereto and marked as **Appendix "I"**. This affidavit contains a summary of the invoices that set out the services provided during this time period.
101. The total fees of Chaitons, as insolvency counsel to Trustee, will be detailed in the Affidavit of Sam Rappos, which will be appended to a supplementary report to be served and filed by the Trustee.

TRUSTEE'S REQUEST TO THE COURT

102. The Trustee requests that the Court grant orders:
- (a) approving this Sixth Report, along with the Third Report and the Fourth Report, and the conduct and activities of the Trustee described therein;

- (b) authorizing and approving the execution by the Trustee of the Letters of Credit Documents and granting a first ranking charge in favour of TD Bank over the Cash Collateral;
- (c) approving the sale by the Trustee of residential condominium suite 1521, along with parking unit 4, level B, and locker 330, level B, to the Purchaser and vesting such property in the Purchaser free and clear of all claims and encumbrances;
- (d) authorizing the Trustee to distribute up to \$1.25 million to Am-Stat from the net sale proceeds of the Vacant Lands, subject to the Trustee maintaining a reserve; and
- (e) approving the fees and disbursements of the Trustee and Chaitons, as set out in the Sixth Report and the fee affidavits attached as appendices hereto and to the Trustee's supplementary report.

All of which is respectfully submitted to this Court as of this 15th day of March, 2016.

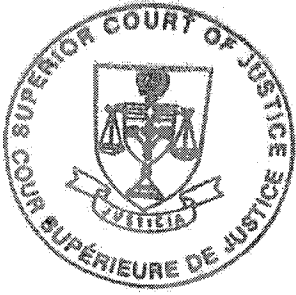
COLLINS BARROW TORONTO LIMITED

In its capacity as Trustee under the *Construction Lien Act* of Jade-Kennedy Development Corporation as owner of South Unionville Square and not in its personal capacity

Per: 

Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
President

APPENDIX "A"



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

THE HONOURABLE Mr.)
)
JUSTICE Pattillo)

WEDNESDAY, THE 11th DAY

OF FEBRUARY, 2015

**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
JADE-KENNEDY DEVELOPMENT CORPORATION
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED**

ORDER
(appointing trustee)

THIS APPLICATION made by the Applicant, Jade-Kennedy Development Corporation, for an Order pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended (the "CLA") appointing Collins Barrow Toronto Limited as trustee (the "Trustee") of the Property (as defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Charles Mady sworn February 5, 2015 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and counsel for those other

parties listed on the Counsel Slip, no one else appearing although duly served as appears from the affidavit of service of Sam Rappos sworn February 9, 2015, and on reading the consent of Collins Barrow Toronto Limited to act as the Trustee,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 68(1) of the CLA, Collins Barrow Toronto Limited is hereby appointed Trustee, without security, of the lands and premises legally described in Schedule "A" attached hereto, and comprised of, among other things, commercial/retail and residential condominium units, and vacant lands, commonly known as South Unionville Square (the "Property").

TRUSTEE'S POWERS

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

- (a) to act as receiver and manager of the Property;
- (b) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (c) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the engaging of independent security personnel, and the placement of such insurance coverage as may be necessary or desirable;
- (d) to engage consultants, agents, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Trustee's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, or other assets to assist with the exercise of the Trustee's powers and duties, including without limitation those conferred by this Order;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Applicant in respect of the Property, and to exercise all remedies of the Applicant in collecting such monies, including, without limitation, to enforce any security held by the Applicant;
- (g) to settle, extend or compromise any indebtedness owing to the Applicant;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of the Property, whether in the Trustee's name or in the name and on behalf of the Applicant, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the

Applicant, the Property or the Trustee, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to complete the existing agreements of purchase and sale reproduced in the Confidential Appendix "1" for the 18 pre-sold South Unionville Square Phase II commercial/retail condominium units that forms part of the Property (collectively, the "Sold Units");
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Trustee in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof, with the approval of this Court;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Trustee deems appropriate on all matters relating to the Property, and to share information, subject to such terms as to confidentiality as the Trustee deems advisable;

KL
** subject to solicitor and client privilege*

- (o) to register a copy of this Order and any other Orders in respect of the Property against title to the Property;
- (p) to apply for any permits, licences, approvals, declarations, or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Trustee, in the name of the Applicant;
and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Trustee takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Applicant, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE TRUSTEE

4. **THIS COURT ORDERS** that (i) the Applicant, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall grant immediate and continued access to the Property to the Trustee.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Trustee of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or

affairs of the Applicant, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Trustee or permit the Trustee to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Trustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

NO PROCEEDINGS AGAINST THE TRUSTEE

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

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

8. **THIS COURT ORDERS** that, subject to the provisions of paragraph 9, no Proceeding against or in respect of the Applicant or the Property, including without limitation any Proceeding commenced under the CLA against the Applicant or mortgagees of the Property, shall be commenced or continued except with the written consent of the Trustee or with leave of this Court and any and all such Proceedings currently under way are hereby stayed and suspended pending further Order of this Court. Any request by construction lien claimants to mortgagees pursuant to section 39 of the CLA for particulars or information with respect to outstanding encumbrances, shall be directed to, and responded by, the Trustee upon being provided the requested information by the mortgagees.

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against the Applicant, the Trustee, or affecting the Property, are hereby stayed and suspended, except with the written consent of the Trustee or leave of this Court, provided that nothing in this paragraph shall (i) empower the Trustee or the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) exempt the Trustee or the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment, or (iii) prevent the registration of claims for lien, the issuance of statements of claim and the registration of certificates of action by

construction lien claimants, provided that no further steps to enforce the liens may be taken by the lien claimants without consent of the Applicant and Trustee or leave of this Court.

NO INTERFERENCE WITH THE TRUSTEE

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

11. **THIS COURT ORDERS** that no Proceeding may be commenced or continued against any of the former or current directors, officers or management of the Applicant, and any person, including an employee or agent of the Applicant, who had effective control of the Applicant or its relevant activities, with respect to any claim against such persons that arose before the date hereof and whereby such persons are alleged under any law to be liable, including the CLA, except with the prior written consent of the Trustee or leave of this Court.

CONTINUATION OF SERVICES

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

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

TRUSTEE TO HOLD FUNDS

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

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Applicant shall remain the employees of the Applicant until such time as the Trustee, on the Applicant's behalf, may terminate the employment of such employees. The Trustee shall not be liable for any employee-related liabilities, including any successor employer liabilities, other than such amounts as the Trustee may specifically agree in writing to pay.

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Trustee shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Trustee, or in the alternative destroy all such information. The purchaser of any part of the Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Trustee to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario*

Water Resources Act, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE TRUSTEE'S LIABILITY

17. **THIS COURT ORDERS** that the Trustee shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Trustee by any applicable legislation.

ACCOUNTS

18. **THIS COURT ORDERS** that the Trustee, counsel to the Trustee and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Trustee, counsel to the Trustee and counsel to the Applicant shall be entitled to and are hereby granted a charge (the "**Administration Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Administration Charge shall form a first charge on the Property in priority to all any and all existing and future security interests (whether contractual, statutory, or otherwise), mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, construction liens, encumbrances, claims of secured creditors (whether contractual, statutory or

otherwise), executions, or charges, whether or not they have attached or been perfected, registered or filed (collectively, the "Claims") in favour of any Person.

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

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

BORROWING POWERS

21. **THIS COURT ORDERS** that the Trustee be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Trustee by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Trustee's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all Claims in favour of any Person, but subordinate in priority to the Administration Charge.

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

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

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

RETENTION OF LAWYERS

25. **THIS COURT ORDERS** that the Trustee may retain solicitors to represent and advise the Trustee in connection with the exercise of the Trustee's powers and duties, including without limitation those conferred by this Order. Such solicitors may include Chaitons LLP, solicitors for the Applicant herein, in respect of any matter where there is no conflict of interest. The Trustee shall, however, retain independent solicitors in respect of any legal advice or services where a conflict exists, or may exist.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service->

protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <http://www.collinsbarrow.com/en/toronto-ontario/SUSQ>.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

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

SEALING

29. **THIS COURT ORDERS** that Confidential Appendix "1" is hereby sealed and shall not form part of the public record until further order of the Court.

completion of the last transaction

UP

GENERAL

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

31. **THIS COURT ORDERS** that nothing in this Order shall prevent the Trustee from acting as receiver or trustee in bankruptcy of the Applicant.

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

[Handwritten Signature]

ENTRENEE AU MINISTRE A TORONTO
ON / ENQUANCO
LE / DANS LE REGISTRE NO..

FEB 11 2015

MB

SCHEDULE "A"

Phase I Commercial Units

PIN	Property Description
29759-0060 (LT)	Unit 60, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0073 (LT)	Unit 73, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0074 (LT)	Unit 74, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0075 (LT)	Unit 75, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0403 (LT)	Unit 49, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0492 (LT)	Unit 138, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0500 (LT)	Unit 146, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0528 (LT)	Unit 146, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0535 (LT)	Unit 181, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0563 (LT)	Unit 209, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0604 (LT)	Unit 250, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham

PIN	Property Description
29759-0670 (LT)	Unit 316, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0673 (LT)	Unit 319, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0702 (LT)	Unit 348, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0714 (LT)	Unit 360, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0715 (LT)	Unit 361, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0742 (LT)	Unit 388, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0743 (LT)	Unit 389, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0744 (LT)	Unit 390, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0745 (LT)	Unit 391, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0746 (LT)	Unit 392, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0747 (LT)	Unit 393, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0748 (LT)	Unit 394, Level 2, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham

PIN	Property Description
29759-0774 (LT)	Unit 25, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0805 (LT)	Unit 56, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-0806 (LT)	Unit 57, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham
29759-08014 (LT)	Unit 65, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to easements as set out in Schedule A as in YR1966697; City of Markham

Unsold Residential Units

PIN	Property Description
29796-0007 (LT)	Unit 7, Level 1, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0024 (LT)	Unit 14, Level 2, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0146 (LT)	Unit 22, Level 7, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0223 (LT)	Unit 11, Level 11, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0247 (LT)	Unit 15, Level 12, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0250 (LT)	Unit 18, Level 12, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham

PIN	Property Description
29796-0255 (LT)	Unit 4, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0277 (LT)	Unit 26, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0301 (LT)	Unit 50, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0331 (LT)	Unit 80, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0376 (LT)	Unit 125, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0429 (LT)	Unit 178, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0430 (LT)	Unit 179, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0439 (LT)	Unit 188, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0533 (LT)	Unit 282, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0578 (LT)	Unit 327, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0581 (LT)	Unit 330, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0584 (LT)	Unit 333, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham

PIN	Property Description
29796-0586 (LT)	Unit 335, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham
29796-0624 (LT)	Unit 373, Level B, York Region Standard Condominium Plan No. 1265 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR2185723; City of Markham

Phase II Commercial Units

PIN	Property Description
29759-0834 (LT)	Unit 355, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0835 (LT)	Unit 356, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0836 (LT)	Unit 357, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0837 (LT)	Unit 358, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0838 (LT)	Unit 359, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0839 (LT)	Unit 360, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0840 (LT)	Unit 361, Level 1, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0841 (LT)	Unit 85, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham

PIN	Property Description
29759-0842 (LT)	Unit 86, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0843 (LT)	Unit 87, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0844 (LT)	Unit 88, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0845 (LT)	Unit 89, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0846 (LT)	Unit 90, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0847 (LT)	Unit 91, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0848 (LT)	Unit 92, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0849 (LT)	Unit 93, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0850 (LT)	Unit 94, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0851 (LT)	Unit 95, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0852 (LT)	Unit 96, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham
29759-0853 (LT)	Unit 97, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham

PIN	Property Description
29759-0854 (LT)	Unit 98, Level A, York Region Standard Condominium Plan No. 1228 and its Appurtenant interest; Subject to and together with easements as set out in Schedule A as in YR1966697; City of Markham

Vacant Lands

PIN	Property Description
02963-2965 (LT)	Pt Lt 2 PL 2196 Markham, Pt 9 65R27668 ; T/W Row Over Pt Lt 2 PL 2196 Markham, Pts 10, 11 & 12, 65R27668, until such time as said Pts 10, 11 & 12, 65R27668 have been dedicated as part of public highway, as in YR623430 ;; Town of Markham
02963-2972 (LT)	Pt Lt 2 PL 2196 Markham, Pt 8 65R27668 ; T/W Row Over Pt Lt 2 PL 2196 Markham, Pts 2, 3, 5, 6 & 7, 65R27668, until such time as said Pts 2, 3, 5, 6 & 7, 65R27668 have been dedicated as part of public highway, as in YR623430 ;; Town of Markham
02963-3571 (LT)	Pt Lt 2 PL 2196, Being Pts 2 & 3 PL 65R33603 ;; Town of Markham
02963-3579 (LT)	Part Lot 1 Plan 2196, Pts 1 and 2 on 65R33243.; Town of Markham
02963-3587 (LT)	Pt Lt 2 PL 2196, Pt 10 65R33243, S/T Easement in Gross, as in YR767057 ;; Town of Markham

SCHEDULE "B"

TRUSTEE CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Collins Barrow Toronto Limited, the trustee (the "Trustee") of the Property appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 11th day of February, 2015 (the "Order") made in an application having Court file number ___-CL-_____, has received as such Trustee from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Trustee is authorized to borrow under and pursuant to the Order.

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

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Trustee pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the Claims (as defined in the Order) of any other person, but subject to the priority of the charges set out in the Order, and the right of the Trustee to indemnify itself out of such Property in respect of its remuneration and expenses.

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Trustee to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the _____ day of _____, 20__.

COLLINS BARROW TORONTO LIMITED,
solely in its capacity as Trustee of the Property,
and not in its personal capacity

Per: _____

Name:

Title:

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 JADE-KENNEDY DEVELOPMENT CORPORATION
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. CV-15-10882-00 CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

(appointment of a trustee)

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

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Lawyers for the Applicant,
Jade-Kennedy Development Corporation

APPENDIX “B”

In the Matter of the Construction Lien Proceeding of Jade-Kennedy Development Corporation
 Trustee's Statement of Receipts and Disbursements
 For the Period February 11, 2015 to March 4, 2016

Receipts		Notes
Sale of Phase II Commercial Units	\$3,717,421.84	1 (i)
Sale of Phase III Land	1,750,488.73	1 (ii)
Sale of Phase I Commercial Units	888,504.70	1 (iii)
Letter of Credit Proceeds	729,442.18	2
Refund from PowerStream Inc.	212,125.30	3
Realty Taxes Collected	97,755.32	4
HST Refunds	214,954.27	
Common Area Expenses Collected	12,930.37	5
Refund from City of Markham	230,664.88	6
Interest on Investments	4,105.31	
Miscellaneous Refunds	2,221.99	
Total receipts	<u>\$7,860,614.89</u>	
Disbursements		
Repairs and Maintenance	1,001,999.81	7
Trustee fees	674,999.00	
HST paid	299,426.93	
Legal fees and disbursements	217,882.33	
Third Party Consultants	232,657.31	8
Tarion related payments	196,212.56	9
Letter of Credit Fees	161,404.97	2
Realty Taxes	117,320.04	10
Realty Taxes paid on behalf of Phase II Purchasers	97,755.32	4
Common Area Expenses - units available	101,933.49	11
Wages	49,880.69	12
Commission on sale of units	35,480.00	13
Common Area Expenses - on behalf of Phase II Purchasers	12,930.37	5
Utilities	7,070.33	11
Insurance	2,875.00	11
Appraisal fees	2,595.00	14
Administrative disbursement	1,435.45	
ASCEND licenses	340.00	
Bank Charges	84.00	
Total Disbursements	<u>\$3,214,282.60</u>	
Excess of Receipts over Disbursements	<u>\$4,646,332.29</u>	
Represented by:		
Cash	\$415,843.56	
Term Deposits	4,230,488.73	
Total	<u>\$4,646,332.29</u>	

Notes

1. \$4,230,488.73 is invested in term deposits at The Bank of Montreal

**In the Matter of the Construction Lien Proceeding of Jade-Kennedy Development Corporation
Trustee's Statement of Receipts and Disbursements
For the Period February 11, 2015 to March 4, 2016**

Notes:

- 1
 - i) The Trustee closed 16 of the 21 Phase II commercial units that were pre-sold prior to its appointment. The remaining five units are currently listed for sale by TradeWorld Realty.
 - ii) The Trustee sold Phase III vacant land for \$1,750,488.73.
 - iii) The Trustee sold four Phase I units: three kiosk units and one commercial unit.

- 2 The Trustee completed works resulting in the release of three Letters of Credit ("LC") by The Regional Municipality of York Region ("York Region") one with The City of Markham ("City") and one with PowerStream:
 - i) LC 601070 in the amount of \$182,448 was reduced to a maintenance level of \$27,367.20. The Trustee received gross proceeds of \$156,408.39 (including interest) on Oct. 20/15. The bank deducted \$3,862.24 in costs.
 - ii) LC 600723 in the amount of \$196,812 was fully released. The Trustee received gross proceeds of \$228,911.08 (including interest) on Sept. 1/15. The bank deducted \$100,718.60 in costs.
 - iii) LC 600579 in the amount of \$359,100 was reduced to a maintenance level of \$54,000. The Trustee received gross proceeds of \$307,519.36 (including interest) on Nov. 27/15. The bank deducted \$22,664.48 in costs.
 - iv) LC's 601069 in the amount of \$15,000.00 (City) and LC 601063 in the amount of \$19,900.22 (PowerStream) were released. The Trustee received gross proceeds of \$36,603.35 on Nov. 20/15. The bank deducted \$6,491.66 in costs.

The Trustee paid \$10,400 in fees and \$17,267.99 in Commissions and Legal Fees to extend five LCs to Sept 15/16.

- 3 The Trustee received a \$212,125.30 refund from PowerStream Inc. representing actual consumption rates lower than estimated.

- 4 The Agreements of Purchase and Sale for the pre-sold 16 Phase II commercial units required the vendor to collect realty taxes from the purchasers for 2014/15 and to remit this to the City of Markham. The Trustee collected \$97,755.32 and subsequently remitted this to the City of Markham.

- 5 The Agreements of Purchase and Sale for the pre-sold 16 Phase II commercial units required the vendor to collect common area expense from the purchasers and remit these amounts to the condo corporation.

- 6 The Trustee has received several realty tax refunds from the City of Markham including \$188,449.76 received as a Development Charge Refund due to a successful OMB appeal.

- 7 The Trustee was required to repair deficiencies and complete various works pursuant to developer warranties under Tarion requirements and in connection with various outstanding letters of credit for the benefit of York Region and The Corporation of the City of Markham.

- 8 The Trustee was required to retain the services of certain professionals in order to complete work required by Tarion and under various letters of credit.

- 9 The Trustee made payments directly to owners for valid delayed occupancy claims as provided for under developer warranties. These payments were made directly in order to avoid additional charges by Tarion.

- 10 Represents realty taxes bills received by the Trustee for units available for sale.

- 11 The Trustee pays utilities, common area charges and insurance for units available for sale.

- 12 The Trustee had retained the services of a former Mady Development Corporation employee to assist it with on-site duties at the Property.

- 13 Available Units are listed with TradeWorld Realty. The commission rate is 4%.

- 14 The Trustee retained the services of an independent appraiser to value the Phase III vacant land,

APPENDIX “C”



Collins Barrow

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 M5H 4C7 Canada

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www.collinsbarrow.com

February 4, 2016

VIA EMAIL & COURIER

Ms. Catherine Conrad, City Solicitor
 The Corporation of the City of Markham
 Markham Civic Centre
 101 Town Centre Boulevard
 Markham, ON
 L3R 9W3

Dear Ms. Conrad:

**Re: In the Matter of the *Construction Lien Act* Proceeding of
 Jade-Kennedy Development Corporation ("JKDC")**

As you are aware, Collins Barrow Toronto Limited is the Court Appointed Trustee under the Construction Lien Act of JKDC.

As Trustee, we are writing to formally request that The Corporation of the City of Markham ("Markham") agree to a \$1,151,890.35 reduction to the quantum of Letters of Credit ("LCs") required to be provided to Markham by Laurentian Bank of Canada ("Laurentian"). The reasons for this request are set out in this letter and are detailed in the attached Appendix "A".

Since our appointment as Trustee, we have had discussions and corresponded with representatives of Markham's legal department in order to understand the requirements to release the LCs as expeditiously as possible for the benefit of the creditors of JKDC. The Trustee determined that it was in the best interests of the creditors to retain third party consultants to oversee the completion and certification of the work required to reduce/release the LCs down to the maintenance levels (where appropriate).

The Trustee retained Masongsong Associates Engineering Limited ("Masongsong") to oversee the works (as recommended by representatives of Markham), MHBC Planning as the landscape architectural consultants, and several trades to complete the required landscaping and engineering work in accordance with the Site Plan Control Agreement, the Construction Agreement and the Shoring Agreement in place between Markham and JKDC. We also ensured that that the works were certified, statutory declarations were completed, substantial completion notices were issued, proof of publication of notice was obtained and that the 45 day lien period had expired. Particulars of the work undertaken and paid for by the Trustee are set out below.

The breakdown of our reduction request of **\$1,151,890.35** is set out below:

a) Engineering/Public Works

Monies are held under both the Site Plan Control Agreement and the Construction Agreement. The amounts presently held for engineering/public works total \$1,480,484.32, as follows:

LC S600796: Engineering of \$50,000.00 and \$974,588.21; and
LC S601064: Public Works of \$455,896.11.

We attach as Appendix "B" Masongsong's calculation that, based on work completed as of this date, \$827,023.47 is required to be held which would allow a reduction of \$653,460.85 in the amount of the required LC.

In support of this reduction request, we attach, as Appendix "C", the Statutory Declaration including Parcel Abstracts, Proof of Publication dated December 14, 2015 and the Certificate of Substantial Performance dated December 7, 2015 for the works carried out by D. Crupi & Sons Ltd.

b) Landscaping

Monies are held under the Site Plan Control Agreement. The amount presently held for Landscaping under LC S600796 is \$518,485.00

We attach, as Appendix "D", a copy of the email sent to the Trustee on December 8, 2015 by Ms. Cathie Jeffery of Markham's legal department, wherein Ms. Jeffery advises that she has asked finance to reduce the LC to 20% of the total amount. This results in a reduction of \$414,788.00 in the amount of the required LC. To date, there has been no reduction in this letter of credit and we therefore request that reduction.

c) Street Tree Planting

Monies are held under the Construction Agreement. The amount presently held for Street Tree Planting under LC S601065 is \$83,950.00.

We attach, as Appendix "E", Masongsong's calculation that, based on work completed as of this date, \$25,308.50 is required to be held which would allow a reduction of \$58,641.50 in the amount of the required LC.

In support of this reduction request, we attach, as Appendix "F", a Certificate of Conformance from Mr. N. Miele of MHBC Planning for this project, a Statutory Declaration from 1247198 Ontario Inc o/a Pronto General Contractors and a Statutory Declaration from Pro-Land Landscape Construction Inc.

d) Amendment to Site Plan Agreement

Monies are held under the Amendment to Site Plan Control Agreement. The amount presently held under LC S601113 is \$25,000.00, which is comprised of \$5,000.00 for "Waste Management" and \$20,000.00 for "Engineering".

We attach as Appendix "G", a copy of the January 8, 2016 email from Mr. Michael Dipasquale of Markham, to Ms. Colleen Delaney of the Trustee's office advising that the waste management conditions have been met and this portion of the LC can be released.

We attach as Appendix "H", a copy of the Certificate from Masongsong certifying that the water, sanitary and storm service connections on Castan Avenue have been capped.

We therefore request that the LC in the amount of \$25,000.00 be released in its entirety.

Work to be Completed

Attached hereto as Appendix "I" is a letter dated January 28, 2016 from Masongsong which details the work currently outstanding and which will be completed in the spring of 2016. As indicated in the letter, \$11,100.00 is outstanding for "engineering" and \$14,960.00 is outstanding for "street trees".

With respect to the outstanding work to be completed in front of the Primont Homes ("Primont") subdivision, the Trustee's lawyer has confirmed with Primont's lawyer that Primont has entered into agreements to complete all works within the municipal right of way fronting its property and that Primont has posted security for this with Markham. We therefore have removed these works from our calculations with respect to the letters of credit.

It is our intention to complete all outstanding works in the Spring of 2016 and to proceed to "Acceptance for Maintenance" as soon as possible thereafter. The Trustee is in the process of obtaining LCs to cover all maintenance amounts going forward and will provide an update once arrangements are finalized.

Summary

In summary, the Trustee is requesting that the quantum of LC's required to be provided to Markham in respect of JKDC be reduced by \$1,151 890.35 as follows:

Description	Proposed Reduction
a) Engineering/Public Works	\$653,460.85
b) Landscaping	414,788.00
c) Street Tree Planting	58,641.50
d) Amendment to Site Plan Agreement	<u>25,000.00</u>
Total LC Reductions	<u>\$1,151,890.35</u>

As is demonstrated in this letter and as discussed on an ongoing basis with Markham, the Trustee has worked with its consultants to fulfil JKDC's requirements and obligations and has provided to Markham the documentation required pursuant to agreements entered into between Markham and JKDC.

As of the date of this letter, only LC 601069 has been released which has resulted in \$15,000 being received by the Trustee on November 20, 2015.

February 4, 2016
Page 4


We trust that the information herein provides you with the information you require to approve the requested reduction in the quantum of LC's to be posted with Markham. Should you have any questions or require any further information, please contact us and we will endeavour to respond to your request as soon as possible.

We look forward to your positive response to our request.

Yours truly,

COLLINS BARROW TORONTO LIMITED

in its capacity as Trustee under the Construction Lien Act
of Jade-Kennedy Development Corporation as owner of South
Unionville Square and not in its personal or corporate capacity.



Per: Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
President

cc: T. Masongsong

APPENDIX “D”



Toronto Centre
 55 King St W 3rd Floor TD Tower
 Toronto, ON
 M5K 1A2
 Telephone No.: (416) 944-5291
 Fax No.: (416) 982-4330

February 26, 2016

COLLINS BARROW TORONTO LIMITED AS TRUSTEE OF JADE-KENNEDY DEVELOPMENT CORPORATION

Attention: Ms. Colleen H. Delaney,

Dear Ms. Delaney,

We are pleased to offer the Borrower the following credit facilities (the "Facilities"), subject to the following terms and conditions, where applicable.

BORROWER

COLLINS BARROW TORONTO LIMITED IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF JADE-KENNEDY DEVELOPMENT CORPORATION and not in its personal or corporate capacity (the "Borrower")

LENDER

The Toronto-Dominion Bank (the "Bank"), through its Toronto Centre branch, in Toronto, ON,

TYPE OF CREDIT & CREDIT LIMIT

- 1) Domestic Letter of Credit Up to \$27,368 CAD.
- 2) Domestic Letter of Credit Up to \$1,589,574 CAD.
- 3) Domestic Letter of Credit Up to \$54,000 CAD.
- 4) Domestic Letter of Credit Up to \$83,950 CAD.
- 5) Domestic Letter of Credit Up to \$20,000 CAD.
- 6) Domestic Letter of Credit Up to \$25,000 CAD.
- 7) Domestic Letter of Credit Up to \$455,897 CAD.

PURPOSE

All) To take-out existing Letters of Credit issued by Laurentian Bank, in favour of the Regional Municipality of York and/or The Corporation of the Town of Markham.

TENOR

All) Uncommitted

**INTEREST RATES
AND FEES**

Advances shall bear interest and fees as follows:

All) L/C Rate + 1.00%

For all Facilities, interest payments will be made in accordance with Schedule "A" attached hereto unless otherwise stated in this Letter or in the Rate and Payment Terms Notice applicable for a particular drawdown. Information on interest rate and fee definitions, interest rate calculations and payment is set out in the Schedule "A" attached hereto.

**ARRANGEMENT
FEE**

The Borrower will pay prior to any drawdown hereunder a non-refundable arrangement fee of CAD\$1,500. In addition, the Borrower will pay \$225 per annum as an Annual Renewal fee for the Letters of Credit.

DRAWDOWN**Assigned Description
Facilities**

All) As required by Beneficiary, subject to Disbursement Conditions.

**REPAYMENT AND
REDUCTION OF
AMOUNT OF CREDIT
FACILITY****Assigned Description
Facilities**

All) On demand or via cancellation or drawdown by Beneficiary.

SECURITY

The following security shall be provided, shall, unless otherwise indicated, support all present and future indebtedness and liability of the Borrower and the grantor of the security to the Bank including without limitation indebtedness and liability under guarantees, foreign exchange contracts, cash management products, and derivative contracts, shall be registered in first position, and shall be on the Bank's standard form, supported by resolutions and solicitor's opinion, all acceptable to the Bank.

- a) Assignment of Term Deposits and GIC's registered in the name of COLLINS BARROW TORONTO LIMITED AS TRUSTEE OF JADE-KENNEDY DEVELOPMENT CORPORATION in the amount of CAD \$2,315,789. (Lodged at Transit TBD) - To Be Obtained.

All persons and entities required to provide a guarantee shall be referred to in this Agreement individually as a "Surety" and/or "Guarantor" and collectively as the "Guarantors";

All of the above security and guarantees shall be referred to collectively in this Agreement as "Bank Security".

**DISBURSEMENT
CONDITIONS**

The obligation of the Bank to permit any drawdown hereunder is subject to the Standard Disbursement Conditions contained in Schedule "A" in addition to the following:

**Assigned
Facilities Description**

- | | |
|------|--|
| All) | <ol style="list-style-type: none"> 1. All Security and Documentation to be on hand and deemed satisfactory prior to funding, and to be vetted by the Bank's Legal Department. 2. A Court Order, in form satisfactory to the Bank, authorizing and approving Collins Barrow Toronto Limited, as Trustee of Jane-Kennedy Development Corporation, to obtain Letters of Credit from the Bank in the aggregate amount of the outstanding Letters of Credit to be replaced. The court order must grant the Bank a first priority security interest (in priority to all creditors, trust and lien claimants and any other court approved charges, including but not limited to, any administrative charges) over term deposits and GIC's assigned by Collins Barrow Toronto Limited, as Trustee of Jane-Kennedy Development Corporation, to the Bank in an amount equal to 100% of the aggregate value of the outstanding Letters of Credit to be replaced plus an additional \$60,000 for present and future fees and expenses and other potential costs. Court order to be properly served on all creditors (or service otherwise confirmed or dispensed with by the court) and obtained on consent by all creditors or on an unopposed basis. If opposed, the applicable appeal periods relating to the court order must expire prior to issuance of the Letters of Credit. 3. Letter of Credit Blanket Indemnity Agreement and Loan Agreement to be on hand and deemed satisfactory prior to funding. 4. A Bank Account for the Trustee to be opened with TD Bank at all times throughout the term of the Letters of Credit. |
|------|--|

**REPRESENTATIONS
AND WARRANTIES**

All representations and warranties shall be deemed to be continually repeated so long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect. The Borrower makes the Standard Representations and Warranties set out in Schedule "A".

**Assigned Description
Facilities**

All) The Borrower is an Appointed Trustee as set out in the Court Order of the Honourable Justice Pattillo dated February 11th, 2015.

**POSITIVE
COVENANTS**

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will and will ensure that its subsidiaries and each of the Guarantors will observe the Standard Positive Covenants set out in Schedule "A".

**NEGATIVE
COVENANTS**

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will and will ensure that its subsidiaries and each of the Guarantors will observe the Standard Negative Covenants set out in Schedule "A".

**EVENTS OF
DEFAULT**

The Bank may accelerate the payment of principal and interest under any committed credit facility hereunder and cancel any undrawn portion of any committed credit facility hereunder, at any time after the occurrence of any one of the Standard Events of Default contained in Schedule "A" attached hereto.

**LANGUAGE
PREFERENCE**

This Agreement has been drawn up in the English language at the request of all parties

**SCHEDULE "A" -
STANDARD TERMS
AND CONDITIONS**

Schedule "A" sets out the Standard Terms and Conditions ("Standard Terms and Conditions") which apply to these credit facilities. The Standard Terms and Conditions, including the defined terms set out therein, form part of this Agreement, unless this letter states specifically that one or more of the Standard Terms and Conditions do not apply or are modified.

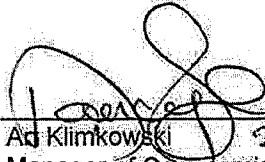
We trust you will find these facilities helpful in meeting your ongoing financing requirements. We ask that if you wish to accept this offer of financing (which includes the Standard Terms and Conditions), please do so by signing and returning the attached duplicate copy of this letter to the undersigned. This offer will expire if not accepted in writing and received by the Bank on or before 15th of March, 2016.

Yours truly,

THE TORONTO-DOMINION BANK



Robert Marrs
Relationship Manager

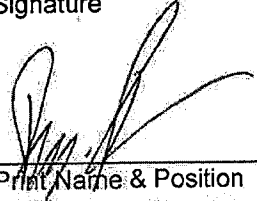


Art Klimkowski
Manager of Commercial Services

TO THE TORONTO-DOMINION BANK:

COLLINS BARROW TORONTO LIMITED, IN ITS CAPACITY AS COURT-APPOINTED TRUSTEE OF JADE-KENNEDY DEVELOPMENT CORPORATION and not in its personal or corporate capacity, hereby accepts the foregoing offer this 11th day of MARCH, 2016. The Borrower confirms that, except as may be set out above, the credit facilities detailed herein shall not be used by or on behalf of any third party.

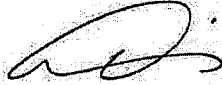
Signature



Print Name & Position

Bryan A. Tannenbaum
President

Signature



Print Name & Position

Daniel Weisz
Senior Vice President

SCHEDULE A
STANDARD TERMS AND CONDITIONS

1. INTEREST RATE DEFINITIONS

Prime Rate means the rate of interest per annum (based on a 365 day year) established and reported by the Bank to the Bank of Canada from time to time as the reference rate of interest for determination of interest rates that the Bank charges to customers of varying degrees of creditworthiness in Canada for Canadian dollar loans made by it in Canada.

The Stamping Fee rate per annum for CAD\$ B/As is based on a 365 day year and the Stamping Fee is calculated on the Face Amount of each B/A presented to the Bank for acceptance. The Stamping Fee rate per annum for USD\$ B/As is based on a 360 day year and the Stamping Fee is calculated on the Face Amount of each B/A presented to the Bank for acceptance.

LIBOR means the rate of interest per annum (based on a 360 day year) as determined by the Bank (rounded upwards, if necessary to the nearest whole multiple of 1/16th of 1%) at which the Bank may make available United States dollars which are obtained by the Bank in the Interbank Euro Currency Market, London, England at approximately 11:00 a.m. (Toronto time) on the second Business Day before the first day of, and in an amount similar to, and for the period similar to the interest period of, such advance.

USBR means the rate of interest per annum (based on a 365 day year) established by the Bank from time to time as the reference rate of interest for the determination of interest rates that the Bank charges to customers of varying degrees of creditworthiness for US dollar loans made by it in Canada.

Any interest rate based on a period less than a year expressed as an annual rate for the purposes of the Interest Act (Canada) is equivalent to such determined rate multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days in the period upon which it was based.

2. INTEREST CALCULATION AND PAYMENT

Interest on Prime Based Loans and USBR Loans is calculated daily (including February 29 in a leap year) and payable monthly in arrears based on the number of days the subject loan is outstanding unless otherwise provided in the Rate and Payment Terms Notice. Interest is charged on February 29 in a leap year.

The Stamping Fee is calculated based on the amount and the term of the B/A and payable upon acceptance by the Bank of the B/A. The net proceeds received by the Borrower on a B/A advance will be equal to the Face Amount of the B/A discounted at the Bank's then prevailing B/A discount rate for CAD\$ B/As or USD\$ B/As as the case may be, for the specified term of the B/A less the B/A Stamping Fee.

Interest on LIBOR Loans is calculated and payable on the earlier of contract maturity or quarterly in arrears, for the number of days in the LIBOR interest period.

L/C and L/G fees are payable at the time set out in the Letter of Credit Indemnity Agreement applicable to the issued L/C or L/G.

Interest on Fixed Rate Term Loans is compounded monthly and payable monthly in arrears unless otherwise provided in the Rate and Payment Terms Notice.

Interest is payable both before and after maturity or demand, default and judgment.

Each payment under this Agreement shall be applied first in payment of costs and expenses, then interest and fees and the balance, if any, shall be applied in reduction of principal.

For loans not secured by real property, all overdue amounts of principal and interest and all amounts outstanding in excess of the Credit Limit shall bear interest from the date on which the same became due or from when the excess was incurred, as the case may be, until the date of payment or until the date the excess

is repaid at 21% per annum, or such lower interest rate if the Bank agrees to a lower interest rate in writing. Nothing in this clause shall be deemed to authorize the Borrower to incur loans in excess of the Credit Limit.

If any provision of this Agreement would oblige the Borrower to make any payment of interest or other amount payable to the Bank in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Bank of "interest" at a "criminal rate" (as such terms are construed under the Criminal Code (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by the Bank of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows: first, by reducing the amount or rate of interest, and, thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the Bank which would constitute interest for purposes of section 347 of the Criminal Code (Canada).

3. DRAWDOWN PROVISIONS

Prime Based and USBR Loans

There is no minimum amount of drawdown by way of Prime Based Loans and USBR Loans, except as stated in the section of the Agreement titled "Business Credit Services Agreement", if that section of the Agreement has not been deleted. The Borrower shall provide the Bank with 3 Business Days' notice of a requested Prime Based Loan or USBR Loan over \$1,000,000.

B/As

The Borrower shall advise the Bank of the requested term or maturity date for B/As issued hereunder. The Bank shall have the discretion to restrict the term or maturity dates of B/As. In no event shall the term of the B/A exceed the Contractual Term Maturity Date. The minimum amount of a drawdown by way of B/As is \$1,000,000 and in multiples of \$100,000 thereafter. The Borrower shall provide the Bank with 3 Business Days' notice of a requested B/A drawdown.

The Borrower shall pay to the Bank the full amount of the B/A at the maturity date of the B/A.

The Borrower appoints the Bank as its attorney to and authorizes the Bank to (i) complete, sign, endorse, negotiate and deliver B/As on behalf of the Borrower in handwritten form, or by facsimile or mechanical signature or otherwise, (ii) accept such B/As, and (iii) purchase, discount, and/or negotiate B/As.

LIBOR

The Borrower shall advise the Bank of the requested LIBOR contract maturity period. The Bank shall have the discretion to restrict the LIBOR contract maturity. In no event shall the term of the LIBOR contract exceed the Contractual Term Maturity Date. The minimum amount of a drawdown by way of a LIBOR Loan is \$1,000,000, and shall be in multiples of \$100,000 thereafter. The Borrower will provide the Bank with 3 Business Days' notice of a requested LIBOR Loan.

L/C and/or L/G

The Bank shall have the discretion to restrict the maturity date of L/Gs or L/Cs.

B/A - Prime Conversion

The Borrower will provide the Bank with at least 3 Business Days' notice of its intention either to convert a B/A to a Prime Based Loan or vice versa, failing which, the Bank may decline to accept such additional B/As or may charge interest on the amount of Prime Based Loans resulting from maturity of B/As at the rate of 115% of the rate applicable to Prime Based Loans for the 3 Business Day period immediately following such maturity. Thereafter, the rate shall revert to the rate applicable to Prime Based Loans.

Cash Management

The Bank may, and the Borrower hereby authorizes the Bank to, drawdown under the Operating Loan to satisfy any obligations of the Borrower to the Bank in connection with any cash management service provided by the Bank to the Borrower. The Bank may drawdown under the Operating Loan even if the drawdown results in amounts outstanding in excess of the Credit Limit.

Notice

Prior to each drawdown and at least 10 days prior to each Rate Term Maturity, the Borrower will advise the Bank of its selection of drawdown options from those made available by the Bank. The Bank will, after each drawdown, other than drawdowns by way of BA, LIBOR Loan or under the operating loan, send a Rate and Payment Terms Notice to the Borrower.

4. PREPAYMENT**Fixed Rate Term Loans****10% Prepayment Option Chosen.**

- (a) Once, each calendar year, ("Year"), the Borrower may, provided that an Event of Default has not occurred, prepay in one lump sum, an amount of principal outstanding under a Fixed Rate Term Loan not exceeding 10% of the original amount of the Fixed Rate Term Loan, upon payment of all interest accrued to the date of prepayment without paying any prepayment charge. If the prepayment privilege is not used in one Year, it cannot be carried forward and used in a later Year.
- (b) Provided that an Event of Default has not occurred, the Borrower may prepay more than 10% of the original amount of a Fixed Rate Term Loan in any Year, upon payment of all interest accrued to the date of prepayment and an amount equal to the greater of:
- i) three months' interest on the amount of the prepayment (the amount of prepayment is the amount of prepayment exceeding the 10% limit described in Section 4(a)) using the interest rate applicable to the Fixed Rate Term Loan being prepaid; and
 - ii) the Interest Rate Differential, being the amount by which:
 - a. the total amount of interest on the amount of the prepayment (the amount of prepayment is the amount of prepayment exceeding the 10% limit described in Section 4(a)) using the interest rate applicable to the Fixed Rate Term Loan being prepaid calculated for the period of time from the prepayment date until the Rate Term Maturity Date for the Fixed Rate Term Loan being prepaid (the "Remaining Term"), exceeds
 - b. the total amount of interest on the amount of the prepayment (the amount of prepayment is the amount of prepayment exceeding the 10% limit described in Section 4(a)) using the interest rate applicable to a fixed rate term loan that the Bank would make to a borrower for a comparable facility on the prepayment date, calculated for the Remaining Term.

10% Prepayment Option Not Chosen.

- (c) The Borrower may, provided that an Event of Default has not occurred, prepay all or any part of the principal then outstanding under a Fixed Rate Term Loan upon payment of all interest accrued to the date of prepayment and an amount equal to the greater of:
- i) three months' interest on the amount of the prepayment using the interest rate applicable to the Fixed Rate Term Loan being prepaid; and
 - ii) the Interest Rate Differential, being the amount by which:

- a. the total amount of interest on the amount of the prepayment using the interest rate applicable to the Fixed Rate Term Loan being prepaid calculated for the period of time from the prepayment date until the Rate Term Maturity Date for the Fixed Rate Term Loan being prepaid (the "Remaining Term"), exceeds
- b. the total amount of interest on the amount of the prepayment using the interest rate applicable to a fixed rate term loan that the Bank would make to a borrower for a comparable facility on the prepayment date, calculated for the Remaining Term.

Floating Rate Term Loans

The Borrower may prepay the whole or any part of the principal outstanding under a Floating Rate Term Loan, at any time without the payment of prepayment charges.

5. STANDARD DISBURSEMENT CONDITIONS

The obligation of the Bank to permit any drawdowns hereunder at any time is subject to the following conditions precedent:

- a) The Bank shall have received the following documents which shall be in form and substance satisfactory to the Bank:
 - i) A copy of a duly executed resolution of the Board of Directors of the Borrower empowering the Borrower to enter into this Agreement;
 - ii) A copy of any necessary government approvals authorizing the Borrower to enter into this Agreement;
 - iii) All of the Bank Security and supporting resolutions and solicitors' letter of opinion required hereunder;
 - iv) The Borrower's compliance certificate certifying compliance with all terms and conditions hereunder;
 - v) all operation of account documentation; and
 - vi) For drawdowns under the Facility by way of L/C or L/G, the Bank's standard form Letter of Credit Indemnity Agreement
- b) The representations and warranties contained in this Agreement are correct.
- c) No event has occurred and is continuing which constitutes an Event of Default or would constitute an Event of Default, but for the requirement that notice be given or time elapse or both.
- d) The Bank has received the arrangement fee payable hereunder (if any) and the Borrower has paid all legal and other expenses incurred by the Bank in connection with the Agreement or the Bank Security.

6. STANDARD REPRESENTATIONS AND WARRANTIES

The Borrower hereby represents and warrants, which representations and warranties shall be deemed to be continually repeated so long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, that:

- a) The Borrower is a duly incorporated corporation, a limited partnership, partnership, or sole proprietorship, duly organized, validly existing and in good standing under the laws of the jurisdiction where the Branch/Centre is located and each other jurisdiction where the Borrower has property or assets or carries on business and the Borrower has adequate corporate power and authority to carry on its business, own property, borrow monies and enter into agreements therefore, execute and deliver the Agreement, the Bank Security, and documents required hereunder, and observe and perform the terms and provisions of this Agreement.
- b) There are no laws, statutes or regulations applicable to or binding upon the Borrower and no provisions in its charter documents or in any by-laws, resolutions, contracts, agreements, or arrangements which would be contravened, breached, violated as a result of the execution, delivery, performance, observance, of any terms of this Agreement.

- c) No Event of Default has occurred nor has any event occurred which, with the passage of time or the giving of notice, would constitute an Event of Default under this Agreement or which would constitute a default under any other agreement.
- d) There are no actions, suits or proceedings, including appeals or applications for review, or any knowledge of pending actions, suits, or proceedings against the Borrower and its subsidiaries, before any court or administrative agency which would result in any material adverse change in the property, assets, financial condition, business or operations of the Borrower.
- e) All material authorizations, approvals, consents, licenses, exemptions, filings, registrations and other requirements of governmental, judicial and public bodies and authorities required to carry on its business have been or will be obtained or effected and are or will be in full force and effect.
- f) The financial statements and forecasts delivered to the Bank fairly present the present financial position of the Borrower, and have been prepared by the Borrower and its auditors in accordance with the International Financial Reporting Standards or GAAP for Private Enterprises.
- g) All of the remittances required to be made by the Borrower to the federal government and all provincial and municipal governments have been made, are currently up to date and there are no outstanding arrears. Without limiting the foregoing, all employee source deductions (including income taxes, Employment Insurance and Canada Pension Plan), sales taxes (both provincial and federal), corporate income taxes, corporate capital taxes, payroll taxes and Workers' Compensation dues are currently paid and up to date.
- h) All information that the Borrower has provided to the Bank is accurate and complete respecting, where applicable:
 - i) the names of the Borrower's directors and the names and addresses of the Borrower's beneficial owners;
 - ii) the names and addresses of the Borrower's trustees, known beneficiaries and/or settlors; and
 - iii) the Borrower's ownership, control and structure.

7. STANDARD POSITIVE COVENANTS

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will, and will ensure that its subsidiaries and each of the Guarantors will:

- a) Pay all amounts of principal, interest and fees on the dates, times and place specified herein, under the Rate and Payment Terms Notice, and under any other agreement between the Bank and the Borrower.
- b) Advise the Bank of any change in the amount and the terms of any credit arrangement made with other lenders or any action taken by another lender to recover amounts outstanding with such other lender.
- c) Advise promptly after the happening of any event which will result in a material adverse change in the financial condition, business, operations, or prospects of the Borrower or the occurrence of any Event of Default or default under this Agreement or under any other agreement for borrowed money.
- d) Do all things necessary to maintain in good standing its corporate existence and preserve and keep all material agreements, rights, franchises, licenses, operations, contracts or other arrangements in full force and effect.
- e) Take all necessary actions to ensure that the Bank Security and its obligations hereunder will rank ahead of all other indebtedness of and all other security granted by the Borrower.
- f) Pay all taxes, assessments and government charges unless such taxes, assessments, or charges are being contested in good faith and appropriate reserves shall be made with funds set aside in a separate trust fund.
- g) Provide the Bank with information and financial data as it may request from time to time, including, without limitation, such updated information and/or additional supporting information as the Bank may require with respect to any or all the matters in the Borrower's representation and warranty in Section 6(h).
- h) Maintain property, plant and equipment in good repair and working condition.

- i) Inform the Bank of any actual or probable litigation and furnish the Bank with copies of details of any litigation or other proceedings, which might affect the financial condition, business, operations, or prospects of the Borrower.
- j) Provide such additional security and documentation as may be required from time to time by the Bank or its solicitors.
- k) Continue to carry on the business currently being carried on by the Borrower its subsidiaries and each of the Guarantors at the date hereof.
- l) Maintain adequate insurance on all of its assets, undertakings, and business risks.
- m) Permit the Bank or its authorized representatives full and reasonable access to its premises, business, financial and computer records and allow the duplication or extraction of pertinent information therefrom and
- n) Comply with all applicable laws.

8. STANDARD NEGATIVE COVENANTS

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will not and will ensure that its subsidiaries and each of the Guarantors will not:

- a) Create, incur, assume, or suffer to exist, any mortgage, deed of trust, pledge, lien, security interest, assignment, charge, or encumbrance (including without limitation, any conditional sale, or other title retention agreement, or finance lease) of any nature, upon or with respect to any of its assets or undertakings, now owned or hereafter acquired, except for those Permitted Liens, if any, set out in the Letter.
- b) Create, incur, assume or suffer to exist any other indebtedness for borrowed money (except for indebtedness resulting from Permitted Liens, if any) or guarantee or act as surety or agree to indemnify the debts of any other Person.
- c) Merge or consolidate with any other Person, or acquire all or substantially all of the shares, assets or business of any other Person.
- d) Sell, lease, assign, transfer, convey or otherwise dispose of any of its now owned or hereafter acquired assets (including, without limitation, shares of stock and indebtedness of subsidiaries, receivables and leasehold interests), except for inventory disposed of in the ordinary course of business.
- e) Terminate or enter into a surrender of any lease of any property mortgaged under the Bank Security.
- f) Cease to carry on the business currently being carried on by each of the Borrower, its subsidiaries, and the Guarantors at the date hereof.
- g) Permit any change of ownership or change in the capital structure of the Borrower.

9. ENVIRONMENTAL

The Borrower represents and warrants (which representation and warranty shall continue throughout the term of this Agreement) that the business of the Borrower, its subsidiaries and each of the Guarantors is being operated in compliance with applicable laws and regulations respecting the discharge, omission, spill or disposal of any hazardous materials and that any and all enforcement actions in respect thereto have been clearly conveyed to the Bank.

The Borrower shall, at the request of the Bank from time to time, and at the Borrower's expense, obtain and provide to the Bank an environmental audit or inspection report of the property from auditors or inspectors acceptable to the Bank.

The Borrower hereby indemnifies the Bank, its officers, directors, employees, agents and shareholders, and agrees to hold each of them harmless from all loss, claims, damages and expenses (including legal and audit expenses) which may be suffered or incurred in connection with the indebtedness under this Agreement or in connection with the Bank Security.

10. STANDARD EVENTS OF DEFAULT

The Bank may accelerate the payment of principal and interest under any committed credit facility hereunder and cancel any undrawn portion of any committed credit facility hereunder, at any time after the occurrence of any one of the following Events of Default:

- a) Non-payment of principal outstanding under this Agreement when due or non-payment of interest or fees outstanding under this Agreement within 3 Business Days of when due.
- b) If any representation, warranty or statement made hereunder or made in connection with the execution and delivery of this Agreement or the Bank Security is false or misleading at any time.
- c) If any representation or warranty made or information provided by the Guarantor to the Bank from time to time, including without limitation, under or in connection with the Personal Financial Statement and Privacy Agreement provided by the Guarantor, is false or misleading at any time.
- d) If there is a breach or non-performance or non-observance of any term or condition of this Agreement or the Bank Security and, if such default is capable to being remedied, the default continues unremedied for 5 Business Days after the occurrence.
- e) If the Borrower, any one of its subsidiaries, or, if any of the Guarantors makes a general assignment for the benefit of creditors, files or presents a petition, makes a proposal or commits any act of bankruptcy, or if any action is taken for the winding up, liquidation or the appointment of a liquidator, trustee in bankruptcy, custodian, curator, sequestrator, receiver or any other officer with similar powers or if a judgment or order shall be entered by any court approving a petition for reorganization, arrangement or composition of or in respect of the Borrower, any of its subsidiaries, or any of the Guarantors or if the Borrower, any of its subsidiaries, or any of the Guarantors is insolvent or declared bankrupt.
- f) If there exists a voluntary or involuntary suspension of business of the Borrower, any of its subsidiaries, or any of the Guarantors.
- g) If action is taken by an encumbrancer against the Borrower, any of its subsidiaries, or any of the Guarantors to take possession of property or enforce proceedings against any assets.
- h) If any final judgment for the payment of monies is made against the Borrower, any of its subsidiaries, or any of the Guarantors and it is not discharged within 30 days from the imposition of such judgment.
- i) If there exists an event, the effect of which with lapse of time or the giving of notice, will constitute an event of default or a default under any other agreement for borrowed money in excess of the Cross Default Threshold entered into by the Borrower, any of its subsidiaries, or any of the Guarantors.
- j) If the Borrower, any one of its subsidiaries, or any of the Guarantors default under any other present or future agreement with the Bank or any of the Bank's subsidiaries, including without limitation, any other loan agreement, forward foreign exchange transactions, interest rate and currency and/or commodity swaps.
- k) If the Bank Security is not enforceable or if any party to the Bank Security shall dispute or deny any liability or any of its obligations under the Bank Security, or if any Guarantor terminates a guarantee in respect of future advances.
- l) If, in the Bank's determination, a material adverse change occurs in the financial condition, business operations or prospects of the Borrower, any of the Borrower's subsidiaries, or any of the Guarantors.

11. ACCELERATION

If the Bank accelerates the payment of principal and interest hereunder, the Borrower shall immediately pay to the Bank all amounts outstanding hereunder, including without limitation, the amount of unmatured B/As and LIBOR Loans and the amount of all drawn and undrawn L/Gs and L/Cs. All cost to the Bank of unwinding LIBOR Loans and all loss suffered by the Bank in re-employing amounts repaid will be paid by the Borrower.

The Bank may demand the payment of principal and interest under the Operating Loan (and any other uncommitted facility) hereunder and cancel any undrawn portion of the Operating Loan (and any other uncommitted facility) hereunder, at any time whether or not an Event of Default has occurred.

12. CURRENCY INDEMNITY

USD\$ loans must be repaid with USD\$ and CAD\$ loans must be repaid with CAD\$ and the Borrower shall indemnify the Bank for any loss suffered by the Bank if USD\$ loans are repaid with CAD\$ or vice versa, whether such payment is made pursuant to an order of a court or otherwise.

13. TAXATION ON PAYMENTS

All payments made by the Borrower to the Bank will be made free and clear of all present and future taxes (excluding the Bank's income taxes), withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by applicable law and are made, the Borrower, shall, as a separate and independent obligation, pay to the Bank all additional amounts as shall fully indemnify the Bank from any such taxes, withholdings or deductions.

14. REPRESENTATION

No representation or warranty or other statement made by the Bank concerning any of the credit facilities shall be binding on the Bank unless made by it in writing as a specific amendment to this Agreement.

15. CHANGING THE AGREEMENT

- a) The Bank may, from time to time, unilaterally change the provisions of this Agreement where (i) the provisions of the Agreement relate to the Operating Loan (and any other uncommitted facility) or (ii) such change is for the benefit of the Borrower, or made at the Borrower's request, including without limitation, decreases to fees or interest payable hereunder or (iii) where such change makes compliance with this Agreement less onerous to the Borrower, including without limitation, release of security. These changes can be made by the Bank providing written notice to the Borrower of such changes in the form of a specific waiver or a document constituting an amending agreement. The Borrower is not required to execute such waiver or amending agreement, unless the Bank requests the Borrower to sign such waiver or amending agreement. A change in the Prime Rate and USBR is not an amendment to the terms of this Agreement that requires notification to be provided to the Borrower.
- b) Changes to the Agreement, other than as described in a) above, including changes to covenants and fees payable by the Borrower, are required to be agreed to by the Bank and the Borrower in writing, by the Bank and the Borrower each signing an amending agreement.
- c) The Bank is not required to notify a Guarantor of any change in the Agreement, including any increase in the Credit Limit.

16. ADDED COST

If the introduction of or any change in any present or future law, regulation, treaty, official or unofficial directive, or regulatory requirement, (whether or not having the force of law) or in the interpretation or application thereof, relates to:

- i) the imposition or exemption of taxation of payments due to the Bank or on reserves or deemed reserves in respect of the undrawn portion of any Facility or loan made available hereunder; or,
- ii) any reserve, special deposit, regulatory or similar requirement against assets, deposits, or loans or other acquisition of funds for loans by the Bank; or,
- iii) the amount of capital required or expected to be maintained by the Bank as a result of the existence of the advances or the commitment made hereunder;

and the result of such occurrence is, in the sole determination of the Bank, to increase the cost of the Bank or to reduce the income received or receivable by the Bank hereunder, the Borrower shall, on demand by the Bank, pay to the Bank that amount which the Bank estimates will compensate it for such additional cost or reduction in income and the Bank's estimate shall be conclusive, absent manifest error.

17. EXPENSES

The Borrower shall pay, within 5 Business Days following notification, all fees and expenses (including but not limited to all legal fees) incurred by the Bank in connection with the preparation, registration and ongoing administration of this Agreement and the Bank Security and with the enforcement of the Bank's rights and remedies under this Agreement and the Bank Security whether or not any amounts are advanced under the Agreement. These fees and expenses shall include, but not be limited, to all outside counsel fees and expenses and all in-house legal fees and expenses, if in-house counsel are used, and all outside professional advisory fees and expenses. The Borrower shall pay interest on unpaid amounts due pursuant to this paragraph at the All-In Rate plus 2% per annum.

Without limiting the generality of Section 24, the Bank or its agent, is authorized to debit any of the Borrower's accounts with the amount of the fees and expenses owed by the Borrower hereunder, including the registration fee in connection with the Bank Security, even if that debiting creates an overdraft in any such account. If there are insufficient funds in the Borrower's accounts to reimburse the Bank or its agent for payment of the fees and expenses owed by the Borrower hereunder, the amount debited to the Borrower's accounts shall be deemed to be a Prime Based Loan under the Operating Loan.

The Borrower will, if requested by the Bank, sign a Pre-Authorized Payment Authorization in a format acceptable to the Bank to permit the Bank's agent to debit the Borrower's accounts as contemplated in this Section.

18. NON WAIVER

Any failure by the Bank to object to or take action with respect to a breach of this Agreement or any Bank Security or upon the occurrence of an Event of Default shall not constitute a waiver of the Bank's right to take action at a later date on that breach. No course of conduct by the Bank will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Agreement and the Bank Security or the Bank's rights thereunder.

19. EVIDENCE OF INDEBTEDNESS

The Bank shall record on its records the amount of all loans made hereunder, payments made in respect thereto, and all other amounts becoming due to the Bank under this Agreement. The Bank's records constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Bank pursuant to this Agreement.

The Borrower will sign the Bank's standard form Letter of Credit Indemnity Agreement for all L/Cs and L/Gs issued by the Bank.

With respect to chattel mortgages taken as Bank Security, this Agreement is the Promissory Note referred to in same chattel mortgage, and the indebtedness incurred hereunder is the true indebtedness secured by the chattel mortgage.

20. ENTIRE AGREEMENTS

This Agreement replaces any previous letter agreements dealing specifically with terms and conditions of the credit facilities described in the Letter. Agreements relating to other credit facilities made available by the Bank continue to apply for those other credit facilities. This Agreement, and if applicable, the Letter of Credit Indemnity Agreement, are the entire agreements relating to the Facilities described in this Agreement.

21. ASSIGNMENT

The Bank may assign or grant participation in all or part of this Agreement or in any loan made hereunder without notice to and without the Borrower's consent.

The Borrower may not assign or transfer all or any part of its rights or obligations under this Agreement.

22. RELEASE OF INFORMATION

The Borrower hereby irrevocably authorizes and directs the Borrower's accountant, (the "Accountant") to deliver all financial statements and other financial information concerning the Borrower to the Bank and agrees that the Bank and the Accountant may communicate directly with each other.

23. FX CLOSE OUT

The Borrower hereby acknowledges and agrees that in the event any of the following occur: (i) Default by the Borrower under any forward foreign exchange contract ("FX Contract"); (ii) Default by the Borrower in payment of monies owing by it to anyone, including the Bank; (iii) Default in the performance of any other obligation of the Borrower under any agreement to which it is subject; or (iv) the Borrower is adjudged to be or voluntarily becomes bankrupt or insolvent or admits in writing to its inability to pay its debts as they come due or has a receiver appointed over its assets, the Bank shall be entitled without advance notice to the Borrower to close out and terminate all of the outstanding FX Contracts entered into hereunder, using normal commercial practices employed by the Bank, to determine the gain or loss for each terminated FX contract. The Bank shall then be entitled to calculate a net termination value for all of the terminated FX Contracts which shall be the net sum of all the losses and gains arising from the termination of the FX Contracts which net sum shall be the "Close Out Value" of the terminated FX Contracts. The Borrower acknowledges that it shall be required to forthwith pay any positive Close Out Value owing to the Bank and the Bank shall be required to pay any negative Close Out Value owing to the Borrower, subject to any rights of set-off to which the Bank is entitled or subject.

24. SET-OFF

In addition to and not in limitation of any rights now or hereafter granted under applicable law, the Bank may at any time and from time to time without notice to the Borrower or any other Person, any notice being expressly waived by the Borrower, set-off and compensate and apply any and all deposits, general or special, time or demand, provisional or final, matured or unmatured, in any currency, and any other indebtedness or amount payable by the Bank (irrespective of the place of payment or booking office of the obligation), to or for the credit of or for the Borrower's account, including without limitation, any amount owed by the Bank to the Borrower under any FX Contract or other treasury or derivative product, against and on account of the indebtedness and liability under this Agreement notwithstanding that any of them are contingent or unmatured or in a different currency than the indebtedness and liability under this Agreement.

When applying a deposit or other obligation in a different currency than the indebtedness and liability under this Agreement to the indebtedness and liability under this Agreement, the Bank will convert the deposit or other obligation to the currency of the indebtedness and liability under this Agreement using the Bank's noon spot rate of exchange for the conversion of such currency.

25. LIMITATION ACT

The Borrower and the Bank hereby agree that the limitation period for commencement of any court action or proceeding against the Borrower with respect to demand loans shall be six (6) years rather than the period of time that is set out in the applicable limitation legislation.

26. SEVERABILITY

In the event any one or more of the provisions of this Agreement shall for any reason, including under any applicable statute or rule of law, be held to be invalid, illegal or unenforceable, that part will be severed from this Agreement and will not affect the enforceability of the remaining provisions of this Agreement, which shall remain in full force and effect.

27. MISCELLANEOUS

- i) The Borrower has received a signed copy of this Agreement;
- ii) If more than one Person, firm or corporation signs this Agreement as the Borrower, each party is jointly and severally liable hereunder, and the Bank may require payment of all amounts payable under this Agreement from any one of them, or a portion from each, but the Bank is released from any of its obligations by performing that obligation to any one of them. Each Borrower hereby acknowledges that each Borrower is an agent of each other Borrower and payment by any Borrower hereunder shall be deemed to be payment by the Borrower making the payment and by each other Borrower. Each payment, including interest payments, made will constitute an acknowledgement of the indebtedness and liability hereunder by each Borrower;
- iii) Accounting terms will (to the extent not defined in this Agreement) be interpreted in accordance with accounting principles established from time to time by the Canadian Institute of Chartered Accountants (or any successor) consistently applied, and all financial statements and information provided to the Bank will be prepared in accordance with those principles;

- iv) This Agreement is governed by the law of the Province or Territory where the Branch/Centre is located.
- v) Unless stated otherwise, all amounts referred to herein are in Canadian dollars

28. DEFINITIONS

Capitalized Terms used in this Agreement shall have the following meanings:

"All-In Rate" means the greater of the Interest Rate that the Borrower pays for Prime Based Loans (which for greater certainty includes the percent per annum added to the Prime Rate) or the highest fixed rate paid for Fixed Rate Term Loans.

"Agreement" means the agreement between the Bank and the Borrower set out in the Letter and this Schedule "A" - Standard Terms and Conditions.

"Business Day" means any day (other than a Saturday or Sunday) that the Branch/Centre is open for business.

"Branch/Centre" means The Toronto-Dominion Bank branch or banking centre noted on the first page of the Letter, or such other branch or centre as may from time to time be designated by the Bank.

"Contractual Term Maturity Date" means the last day of the Contractual Term period. If the Letter does not set out a specific Contractual Term period but rather refers to a period of time up to which the Contractual Term Maturity Date can occur, the Bank and the Borrower must agree on a Contractual Term Maturity Date before first drawdown, which Contractual Term Maturity Date will be set out in the Rate and Payments Terms Notice.

"Cross Default Threshold" means the cross default threshold set out in the Letter. If no such cross default threshold is set out in the Letter it will be deemed to be zero.

"Face Amount" means, in respect of:

- (i) a B/A, the amount payable to the holder thereof on its maturity;
- (ii) A L/C or L/G, the maximum amount payable to the beneficiary specified therein or any other Person to whom payments may be required to be made pursuant to such L/C or L/G.

"Fixed Rate Term Loan" means any drawdown in Canadian dollars under a Credit Facility at an interest rate which is fixed for a Rate Term at such rate as is determined by the Bank as its sole discretion.

"Inventory Value" means, at any time of determination, the total value (based on the lower of cost or market) of the Borrower's inventories that are subject to the Bank Security (other than (i) those inventories supplied by trade creditors who at that time have not been fully paid and would have a right to repossess all or part of such inventories if the Borrower were then either bankrupt or in receivership, (ii) those inventories comprising work in process and (iii) those inventories that the Bank may from time to time designate in its sole discretion) minus the total amount of any claims, liens or encumbrances on those inventories having or purporting to have priority over the Bank.

"Letter" means the letter from the Bank to the Borrower to which this Schedule "A" - Standard Terms and Conditions is attached.

"Letter of Credit" or "L/C" means a documentary letter of credit or similar instrument in form and substance satisfactory to the Bank.

"Letter of Guarantee" or "L/G" means a stand-by letter of guarantee or similar instrument in form and substance satisfactory to the Bank.

"Person" includes any individual, sole proprietorship, corporation, partnership, joint venture, trust, unincorporated association, association, institution, entity, party, or government (whether national, federal, provincial, state, municipal, city, county, or otherwise and including any instrumentality, division, agency, body, or department thereof).

"Purchase Money Security Interest" means a security interest on equipment which is granted to a lender or to the seller of such equipment in order to secure the purchase price of such equipment or a loan to acquire such equipment, provided that the amount secured by the security interest does not exceed the cost of the equipment, the Borrower provides written notice to the Bank prior to the creation of the security interest, and the creditor under the security interest has, if requested by the Bank, entered into an inter-creditor agreement with the Bank, in a format acceptable to the Bank.

"Rate Term" means that period of time as selected by the Borrower from the options offered to it by the Bank, during which a Fixed Rate Term Loan will bear a particular interest rate. If no Rate Term is selected, the Borrower will be deemed to have selected a Rate Term of 1 year.

"Rate Term Maturity" means the last day of a Rate Term which day may never exceed the Contractual Term Maturity Date.

"Rate and Payment Terms Notice" means the notice sent by the Bank setting out the interest rate and payment terms for a particular drawdown.

"Receivable Value" means, at any time of determination, the total value of those of the Borrower's trade accounts receivable that are subject to the Bank Security other than (i) those accounts then outstanding for 90 days, (ii) those accounts owing by Persons, firms or corporations affiliated with the Borrower, (iii) those accounts that the Bank may from time to time designate in its sole discretion, (iv) those accounts subject to any claim, liens, or encumbrance having or purporting to have priority over the Bank, (v) those accounts which are subject to a claim of set-off by the obligor under such account, MINUS the total amount of all claims, liens, or encumbrances on those receivables having or purporting to have priority over the Bank.

"Receivables/Inventory Summary" means a summary of the Borrower's trade account receivables and inventories, in form as the Bank may require and certified by a senior officer/representative of the Borrower.

"USD\$ Equivalent" means, on any date, the equivalent amount in United States Dollars after giving effect to a conversion of a specified amount of Canadian Dollars to United States Dollars at the Bank's noon spot rate of exchange for Canadian Dollars to United States Dollars established by the Bank for the day in question.

Letter of Credit Indemnity Agreement

To: The Toronto-Dominion Bank (the "Bank")

From: Collins Barrow Toronto Limited, in its (the "Customer")
 capacity as Court-Appointed Trustee
 Of Jade-Kennedy Development
 Corporation, and not in its Personal
 or Corporate capacity

Date: 29/02/2016

The Customer agrees to the following terms and conditions, where applicable.

1. Authorization to issue letter(s) of credit:

The Customer hereby authorizes and requests the Bank to (as checked below):

- A. Issue the letter of credit or letter of guarantee attached hereto (such letter of credit or letter of guarantee referred to herein as the "Letter of Credit"), or
- B. Issue letters of credit or letters of guarantee from time to time in accordance with the request of the Customer (such letters of credit or letters of guarantee referred to collectively herein as the "Letters of Credit" and individually as the "Letter of Credit").

2. Letter of Credit Fees

In consideration of the issuance of a Letter of Credit or Letters of Credit, the Customer agrees to pay to the Bank for each Letter of Credit issued the fees as indicated below. The fees specified in paragraphs 2(a) to 2(d) below are referred to in this Letter of Credit Indemnity Agreement as the "L/C Fee".

- (a) The Customer will pay a fee equal to 1.00% per cent per annum on the face amount of the Letter of Credit, subject to a minimum fee of \$150.00 if cash secured, or a minimum fee of \$200.00 if not cash secured. The fee shall be paid monthly in advance, provided that the minimum fee shall be paid annually in advance at the same time of issuance or renewal of the Letter of Credit.
- (b) The Customer will pay an additional \$100 fee for the issuance of any Letter of Credit on a rush basis (i.e. within a 24 hour period.)
- (c) The Customer will pay an additional fee for issuing a Letter of Credit in a format other than the Bank's standard format for Letters of Credit. The amount of this additional fee shall be quoted to the Customer at the time of the request for such non-standard Letter of Credit and it shall be in a minimum amount of at least \$150, it being recognized that it may be more than \$150.
- (d) If the Customer requests the Bank to issue a non-standard Letter of Credit and the Bank's in-house legal department are required to spend time dealing with the non-standard Letter of Credit, the Customer will, on demand, pay such additional amount to the Bank, as advised by the Bank, to reimburse the Bank for the Bank's in house lawyer's time in dealing with the non-standard Letter of Credit.

Internal

(e) In the event that the Letter of Credit is terminated or cancelled prior to its scheduled expiry date for any reason whatsoever, no part of the L/C fee shall be refunded by the Bank

3. Renewals

Until otherwise instructed by the Customer in writing, the Bank may extend or renew any Letter of Credit without requiring a further authorization or request from the Customer and the indemnity herein shall apply to such extension or renewal as if the same were the original Letter of Credit.

For each Letter of Credit renewed, the Customer agrees to pay to the Bank the L/C Fee as indicated in Section 2:

4. Amendments

The indemnity herein shall apply to any and all amendments to the Letter of Credit as if the amended letter of credit were the original Letter of Credit.

5. Payment of L/C Fees and Payment Amount

The Bank is authorized to debit any of the Customer's accounts with the amount of the L/C Fee and any Payment Amount (as defined in paragraph 6 herein), and all other amounts becoming due and owing in connection with Letters of Credit even if that debiting creates an overdraft in any such account. If there are insufficient funds in the Customer's accounts to reimburse the Bank for payment of the L/C Fee and the Payment Amount, the Customer shall pay interest on all overdue amounts at the overdue rate set out in the credit agreement under which the Letter of Credit is issued.

6. Indemnity and Reimbursement

The Customer unconditionally and irrevocably authorizes the Bank to pay any amount of any demand made on the Bank under and in accordance with the terms of the Letter of Credit. Any demand or request made upon the Bank for payment under any Letter of Credit or any renewal thereof will be the Bank's sufficient authority to pay thereunder and the Bank shall not be required to determine the validity or sufficiency of such demand or request.

The Customer will indemnify the Bank and save the Bank, its successors and assigns, harmless from and against any and all losses, costs, damages or expenses which the Bank may suffer or incur in any manner whatsoever by reason of the Bank giving any Letter of Credit or any renewal thereof.

The Customer hereby agrees to reimburse the Bank for the amount of all payments made by the Bank under the Letter of Credit issued by the Bank hereunder (such amount hereinafter referred to as the "Payment Amount"). The Customer will make such reimbursement immediately upon written demand by the Bank. Any amount not paid when demanded shall result in a default under this Letter of Credit Indemnity Agreement and a default under the credit agreement under which the Letter of Credit is issued.

The Customer hereby agrees to indemnify and save the Bank and its successors and assigns harmless from and against any and all losses, costs, damages and expenses which the Bank may suffer or incur in any manner whatsoever by reason of the Bank issuing the Letter of Credit or taking any action in connection with the Letter of Credit, including but not limited to legal fees and court costs however incurred by the Bank with respect to the Letter of Credit or in connection with collecting any sums due from the Customer hereunder. The Customer covenants, undertakes and agrees that it will, if requested by the Bank, at its expense, retain counsel acceptable to the Bank in order to intervene in and defend any action, law suit or proceeding which may be brought against the Bank with respect to the Letter of Credit or any payment made or to be made thereunder.

The Customer agrees that in all circumstances where the Customer is of the view that a payment should not be made by the Bank under the Letter of Credit, the Customer's sole recourse shall be the making an application to the court of appropriate jurisdiction, with appropriate notice to the Bank, for an order or declaration enjoining payment by the Bank pursuant to the Letter of Credit (to the extent that such relief may be available at law), the whole at the Customer's expense.

The Customer agrees that it will not under any circumstances, regardless of how extraordinary, unintended or unforeseen such circumstances may be, claim or insist that the Bank should refrain or should have refrained from making payment under the Letter of Credit by virtue of it being aware, actually, constructively or otherwise, of facts justifying the Bank declining to make a payment under the Letter of Credit.

The Customer's obligation to reimburse the Bank under this Letter of Credit Indemnity Agreement for payments and disbursements made by the Bank under the Letter of Credit is absolute and unconditional under any and all circumstance and irrespective of any set-off, counterclaim or defence to payment which the Customer may have or have had against the Bank or the beneficiary of the Letter of Credit.

The Bank shall not have any responsibility or liability for, or any duty to inquire into, the authorization, execution, signature, endorsement, correctness, genuineness, or legal effect of any certificate or other document presented to the Bank pursuant to the Letter of Credit and the Customer fully and unconditionally assumes all risks with respect to same. The Bank shall not be responsible for:

- (a) the validity of certificates or other documents delivered under or in connection with the Letter of Credit that appear on their face to be in order, even if such certificates or other documentation should in fact prove to be invalid, fraudulent or forged;
- (b) errors, omissions, interruptions or delays in transmission or delivery of any messages by mail, cable, telegraph, telefax, or otherwise;
- (c) errors in transaction or errors in the interpretation of technical terms or for errors in the calculation of amounts demanded under the Letter of Credit;
- (d) any failure or inability of the Bank to make payment under the Letter of Credit as a result of any requirement of law or by reason of any control or restriction rightfully or wrongfully exercised by any person, asserting or exercising governmental or permanent powers; or
- (e) for any other consequences arising in respect of a failure by the Bank to honour the Letter of Credit due to reasons beyond the control of the Bank and none of the above shall affect or impair any of the rights or powers of the Bank hereunder or the obligations of the Customer.

Without limiting the generality of the foregoing, it is agreed that any payment made by the Bank in good faith under and in accordance with the terms of the Letter of Credit shall be binding upon the Customer and shall not result in any liability of the Bank to the Customer and shall not lessen the obligations of the Customer under this Letter of Credit Indemnity Agreement.

7. Cash Security

If the Bank shall demand repayment of amounts drawn under the credit facility made available to the Customer pursuant to which Letters of Credit are issued, the Bank may, even if the beneficiary has not drawn under the Letter of Credit, demand that the Customer provide to the Bank cash in an amount equal to the amount of all undrawn Letters of Credit. If the Bank does demand payment of such cash, the Bank may also demand that the Customer provide, if it has not done so already, as continuing collateral security for the present and future indebtedness and liability of the Customer to the Bank, in form and substance satisfactory

Internal

to the Bank, a pledge of such cash together with such registrations and legal opinions as may be required by the Bank, the whole at the Customer's expense.

8. Miscellaneous

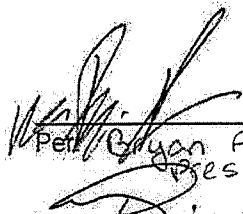
Currency Indemnity: The Payment Amount must be made in the currency of the Letter of Credit. The Customer shall indemnify the Bank for any loss suffered by the Bank if the Letter of Credit is paid in a currency other than the currency of the Letter of Credit.

Assignment: The Bank may assign this Letter of Credit Indemnity Agreement without the Customer's consent.

Entire Agreement: This Letter of Credit Indemnity Agreement and any credit agreement relating to the credit facility pursuant to which the letter of credit is issued ("Letter Agreement") are the entire agreements as it relates to the Customer's obligations to indemnify the Bank for the Letter of Credit. In the event of any inconsistency between this Letter of Credit Indemnity Agreement and the Letter Agreement, the terms and conditions of this Letter of Credit Indemnity Agreement shall govern.

Signed by:

Customer Name: Collins Barrow Toronto Limited, in its capacity as Court-Appointed Trustee Of Jade-Kennedy Development Corporation, and not in its Personal or Corporate capacity


Per: Bryan A. Tannenbaum
President

Per:

Daniel Weisz
Senior Vice President

Assignment of Term Deposits and Credit Balances

1020 Branch

To: The Toronto-Dominion Bank and its subsidiaries, (including TD Mortgage Corporation and TD Pacific Mortgage Corporation) ("TD")

In Consideration of advances heretofore, now or hereafter made to Collins Barrow Toronto Limited, in its Capacity as the Undersigned and/or to Court-Appointed Trustee of Jade-Kennedy Development and not in its personal or corporate capacity (hereinafter called the Customer), the Undersigned hereby assigns, transfers and sets over to The Toronto-Dominion Bank (the "Bank") to the extent of Two Million Three Hundred Fifteen Thousand, Seven

Hundred Eighty Nine***** (\$ 2,315,789.00) Dollars

all monies which are now or may hereafter be from time to time at the credit of the Undersigned with TD at the

55 King Street West, Toronto, ON M5K 1A2 Branch of the Bank,

Which monies shall include any amount and interest thereon due or accruing due to the undersigned pursuant to any term deposit instrument of TD, and TD is hereby authorized to hold such monies as a continuing collateral security for the payment of the present and future indebtedness and / or liability, direct or indirect, by way of guarantee or otherwise, and however arising, and any ultimate unpaid balance thereof, of the Undersigned and / or of the Customer to the Bank; and TD is hereby authorized to refuse to honour any cheques or orders for the payment of money which the Bank may consider would impair the value of this Assignment. The Undersigned further authorizes TD to charge against any monies herein assigned any indebtedness and / or liability hereby secured as the same may become due and payable.

It is understood that if TD permits the Undersigned to make withdrawals from any such monies at the credit of the Undersigned, such permission shall be without prejudice to the rights hereby conferred upon the Bank to hold such monies as security as aforesaid or to charge against the same any indebtedness and / or liability hereby secured and is not to be construed as a waiver by the Bank of such rights.

The Bank may grant extensions of time or any other indulgence, take and give up security, accept compositions, grant releases and discharges, and otherwise deal with the Customer and with other parties and securities as the Bank may see fit without prejudice to the indebtedness and / or liability of the Undersigned to the Bank or to the Bank's rights to hold or deal with the said monies herein assigned. The authority hereby given shall not be revoked by the death of the Undersigned and in the event of the death of the Undersigned you are hereby authorized to pay from the monies herein assigned the indebtedness and / or liability of the Undersigned and / or the Customer to the Bank whether such indebtedness and / or liability has become due and payable or not.

This assignment shall be binding upon the heirs, executors, administrators and assigns of the Undersigned. The Undersigned acknowledges receiving a copy of this assignment.

Dated at Toronto, ON this 11th day of March 2016.

Company Name: Collins Barrow Toronto Limited, in its Capacity as Court-Appointed Trustee of Jade-Kennedy Development Corporation and not in its personal or corporate capacity.

Signature: [Handwritten Signature] Brian A. Tannenbaum

Signature: [Handwritten Signature] Daniel Weissz

Title: President

Title: Senior Vice President

APPENDIX “E”

APPENDIX "E"

Lien Claimant	Amount of Lien	Instrument No.	Registration Date	Description of Services / Materials Time Period
Global Mechanical Ltd.	\$102,625.69	YR2222182	November 27, 2014	Plumbing, heating and sprinklers 06/01/2012 to 11/27/2014
Global Fire Protection Ltd.	\$14,464.88	YR2222710	November 28, 2014	Sprinklers 08/20/2010 to 11/03/2014
Global Mechanical Ltd.	\$195,011.90	YR2222713	November 28, 2014	Plumbing, heating and HVAC 06/20/2010 to 11/05/2014
Frendel Kitchens Limited	\$226,447.41	YR2230304	December 11, 2014	Supply and install kitchen cabinets and bathroom vanities 07/19/2012 to 11/06/2014
2050491 Ontario Inc.	\$501,133.07	YR2232092	December 15, 2014	Supply and install of landscape construction, planting, concrete, irrigation, site works 08/27/2013 to 12/12/2014
Global Precast Inc.	\$132,901.63	YR2233490	December 17, 2014	Supply and install of architectural precast concrete work 02/09/2013 to 11/03/2014
Guest Tile Inc	\$249,916.12	YR2235281 YR2238302	December 19, 2014 December 31, 2014	Flooring materials and installation 11/15/2012 to 11/18/2014

Lien Claimant	Amount of Lien	Instrument No.	Registration Date	Description of Services / Materials Time Period
Screen Painting Ltd.	\$200,000	YR2235938	December 22, 2014	All painting, wallpaper, supply materials and equipment 05/28/2013 to 11/16/2014
Triumph Roofing and Sheet Metal Inc.	\$81,519.39	YR2236748	December 24, 2014	Rubberized asphalt membrane roofing system, flashing, metal fascia, cladding, sheet metal and accessories 06/01/2013 to 11/21/2014
Dircam Electric Limited	\$822,796.98	YR2237716	December 30, 2014	Electrical contracting and electrical supplies 08/08/2010 to 12/02/2014
Great Pyramid Aluminum Ltd.	\$62,154.31	YR2237952	December 30, 2014	Supply and install frameless shower enclosures, entrance door, handrails, guardrails and door lock 05/28/2013 to 12/03/2014
Draglam Waste & Recycling Inc.	\$10,825.95	YR2238316	December 31, 2014	Supply of 40 YD bin service 02/25/2011 to 11/17/2014
Procan Inc.	\$11,978	YR2238636	January 2, 2015	Custom passive graphic – electrical 09/12/2014 to 11/19/2014
CRS Contractors Rental Supply General Partner Inc.	\$37,604.19	YR2240570	January 8, 2015	Rental and/or sale of construction and related equipment/materials 12/02/2010 to 01/08/2015
Brody Wall System Ltd.	\$82,529	YR2246193	January 21, 2015	Supply of material and labour in relation to precast, stucco and wall systems 06/15/2013 to 12/18/2014

Lien Claimant	Amount of Lien	Instrument No.	Registration Date	Description of Services / Materials Time Period
Imperial Trim Supply Ltd.	\$601,565.63	YR2248368	January 27, 2015	Supply and installation of trim-work, doors and all-related and associated items 07/26/2013 to 01/23/2015
Aluminium Window Design Installations Inc.	\$333,239.18	YR2249452	January 29, 2015	Supply and installation of windows, doors and railings 01/14/2013 to 01/22/2015
MJC Contracting 2014 Inc.	\$89,647.93	YR2254098	February 10, 2015	To complete the work for underground services and roadwork 10/01/2014 to 12/29/2014
Skyway Canada Limited	\$11,111.93	YR2262436	March 3, 2015	Scaffolding and other related construction equipment 10/01/2013 to 02/25/2015

APPENDIX “F”

Court File No. CV15-10882-00CL



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

THE HONOURABLE

FRIDAY, THE 1ST DAY

JUSTICE

Pattillo

OF MAY, 2015

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
JADE-KENNEDY DEVELOPMENT CORPORATION
FOR THE APPOINTMENT OF A TRUSTEE UNDER SECTION 68(1) OF THE
CONSTRUCTION LIEN ACT, R.S.O. 1990, c. C.30, AS AMENDED

ORDER

(re Lien Claims Process)

THIS MOTION made by Collins Barrow Toronto Limited, in its capacity as Court-appointed trustee (the "Trustee") over the lands and premises owned by Jade-Kennedy Development Corporation ("JKDC") and subject to this proceeding (the "Property"), appointed pursuant to section 68(1) of the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Trustee dated April 23, 2015 and the Appendices thereto, and on hearing the submissions of counsel for the Trustee and counsel for those other parties listed on the Counsel Slip, no one else appearing although duly served as appears from the affidavit of service of Lynn Lee sworn April 27, 2015, filed,

CLAIMS PROCESS

1. **THIS COURT ORDERS AND DECLARES** that the process set out in this Order (the "Lien Claims Process") for the submission, review and determination of all lien claims (each, a "Claim") pursuant to:

- (a) the *Construction Lien Act* (Ontario) (the "CLA") for the provision of services and materials prior to February 11, 2015 with respect to the improvement located on the Property; and
- (b) the *Condominium Act* (Ontario) (the "CA") for unpaid common expenses that accrued prior to February 11, 2015 with respect to the Property,

is hereby approved and is the exclusive process by which all Claims shall be determined, and all Lien Claimants (as defined below) shall attorn to the Lien Claims Process.

2. **THIS COURT ORDERS** that the Trustee shall implement and administer the Lien Claims Process, including the review, determination (including, but not limited to, the determination of the quantum and timeliness of all liens), acceptance, revision, disallowance and/or settlement of any Claims by any party filing a Claim pursuant to the provisions of this Order (each, a "Lien Claimant" and collectively, the "Lien Claimants"), and may take any steps which the Trustee believes are incidental or necessary for the implementation of the Lien Claims Process.

3. **THIS COURT ORDERS AND DIRECTS** that all Claims shall be administered pursuant to the Claims Process by the Trustee, under the supervision of this Court, and any determination or disposition of any Claim by the Trustee shall have the same force and effect as

if made by a court of competent jurisdiction pursuant to the *CLA* or the *CA*. The Trustee shall, as necessary, consult with JKDC with respect to all Claims. The Trustee may retain such assistance as it may require in connection with its review and determination of the Claims.

4. **THIS COURT ORDERS AND DIRECTS** that in order to file a Claim pursuant to the Lien Claims Process, a Lien Claimant shall provide, if it has not done so to date, the following to the Trustee on or before 5:00 p.m. Toronto time on May 29, 2015 (the "**Claims Bar Date**"), as applicable:

- (a) copies of the Lien Claimant's Statement of Claim and Certificate of Action;
- (b) copies of the applicable Land Registry Lien and Certificate instruments;
- (c) a copy of any contract or subcontract including the names of the parties to any contract or subcontract, any change orders, amendments, purchase orders, documentation evidencing the last date on which the Lien Claimant provided services or materials to the improvement or other related documents on which such Claim is asserted;
- (d) the contract price and a statement of account, including the dates and amounts of payments received; and
- (e) any other documents or information as the Trustee may reasonably request for the purpose of assessing and determining any Claims in accordance with this Order.

5. **THIS COURT ORDERS** that the Trustee is hereby authorized and directed to make recommendations to the Court regarding the determination of holdback(s) and priorities with

respect to the Claims against the Property and any proceeds of the sale of the Property. The Trustee shall serve its report to the Court setting out such recommendations on the Service List in this proceeding no less than 10 days prior to the return date of any motion where the Court will be asked to approve the Trustee's determination as to the holdbacks and priorities.

DETERMINATION OF CLAIMS

6. **THIS COURT ORDERS** that the Trustee shall accept, revise and/or disallow a Claim as set out in a Lien Claimant's Statement of Claim or Land Registry Lien by delivering a notice of determination including the reasons for such determination (a "Notice of Determination").

DISPUTE NOTICE AND APPEALS

7. **THIS COURT ORDERS** that a Lien Claimant may appeal the revision and/or disallowance (as the case may be) of its Claim as set out in a Notice of Determination by delivering a Dispute Notice to the Trustee substantially in the form attached to this Order as Schedule "A" (a "Dispute Notice") within 10 days of the sending of such Notice of Determination by the Trustee. Any Lien Claimant who does not deliver a Dispute Notice within such 10 day period shall be deemed to have accepted the Trustee's determination as set out in the Notice of Determination, which shall be final and binding, and any portion, or the whole, of the Claim (as the case may be) which is disallowed in the Notice of Determination shall be forever barred and extinguished pursuant to this Order.

8. **THIS COURT ORDERS AND DIRECTS** that any appeal or dispute of a Notice of Determination as set out in a Dispute Notice, shall be referred to a claims officer to be appointed by further order of this Court on recommendation by the Trustee (the "Claims Officer") or brought before this Court for adjudication. Any appeal or dispute of a Notice of Determination

as set out in a Dispute Notice shall be conducted as a hearing *de novo* and any appeal of any decision of the Claims Officer shall be heard by this Court on a timetable approved by this Court and shall be final and binding on all parties with no further appeal thereof.

CLAIMS BAR PROVISIONS

9. **THIS COURT ORDERS** that any Claim:

- (a) the particulars of which are not delivered to the Trustee by the Claims Bar Date in accordance with paragraph 4 above; or
- (b) for which a Dispute Notice is not delivered within 10 days of the sending of a Notice of Determination by the Trustee but only with respect to any portion, or the whole (as the case may be) of any such Claim which is disallowed,

shall be forever barred and extinguished and such Lien Claimant submitting the Claim shall be forever estopped and enjoined from asserting or enforcing any further Claims against the Property and JKDC except that nothing in this Order shall bar or extinguish any Claim in its entirety or any part thereof which has been accepted by the Trustee, or approved by the Claims Officer or this Court, as applicable.

10. **THIS COURT ORDERS** that the Trustee shall incur no liability or obligations as a result of the carrying out of the terms of this Order and the implementation and administration of the Lien Claims Process.

NOTICES AND COMMUNICATION

11. **THIS COURT ORDERS** that, except as otherwise provided herein, the Trustee may deliver any notice or other communication to be given under this Order to Lien Claimants by forwarding true copies thereof by e-mail to such Lien Claimants or parties at the address on the Service List, and that any such service or notice by e-mail shall be deemed to be received on the day the e-mail is sent by the Trustee.

12. **THIS COURT ORDERS** that any notice or other communication to be given under this Order by a Lien Claimant to the Trustee shall be in writing in substantially the form, if any, provided for in this Order and will be effective only if delivered by e-mail addressed to:

COLLINS BARROW TORONTO LIMITED

11 King St. West Suite 700, Box 27
Toronto, ON M5H 4C7
Attention: Colleen H. Delaney
Email: chdelaney@collinsbarrow.com

- with a copy to -

CHAITONS LLP

5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9
Attention: Sam Rappos
Email: samr@chaitons.com

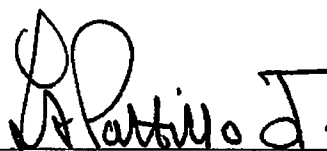
13. **THIS COURT ORDERS** that, notwithstanding the terms of this Order, any party may apply to this Court from time to time for direction with respect to the Lien Claims Process and/or such further order or orders as this Court may consider necessary or desirable to amend or supplement this Order.

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

MAY - 1 2015

Doc#3321855v1

MB



SCHEDULE "A"

Dispute Notice Re: Jade-Kennedy Development Corporation

Defined terms not defined within this Dispute Notice form have the meaning ascribed thereto in the Lien Claims Process Order dated May 1, 2015. Pursuant to paragraph 7 of the Lien Claims Process Order, we hereby give you notice of our intention to dispute the Notice of Determination dated _____ issued by Collins Barrow Toronto Limited as Trustee of the Property in respect of our Claim.

Name of Creditor: _____

Reasons for Dispute (attach additional sheets and copies of all supporting documentation, if necessary):

Signature of Authorized Signing Officer: _____

Date: _____

(Please print name) _____

Telephone Number: () _____ Facsimile Number: () _____

Full Mailing Address: _____

E-mail Address: _____

THIS FORM AND SUPPORTING DOCUMENTATION TO BE RETURNED BY E-MAIL, TO THE ADDRESS INDICATED HEREIN AND TO BE RECEIVED NO LATER THAN 10 DAYS AFTER SENDING OF THE NOTICE OF DETERMINATION BY THE TRUSTEE TO:

COLLINS BARROW TORONTO LIMITED

11 King St. West Suite 700, Box 27

Toronto, ON M5H 4C7

Attention: Colleen H. Delaney

Email: chdelaney@collinsbarrow.com

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- with a copy to -

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9
Attention: Sam Rappos
Email: samr@chaitons.com

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 JADE-KENNEDY DEVELOPMENT CORPORATION
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. CV15-10882-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(re Lien Claims Process)

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

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849
E-mail: harvey@chaitons.com

Sam Rappos (LSUC #51399S)
Tel: (416) 218-1137
Fax: (416) 218-1837
E-mail: samr@chaitons.com

Lawyers for the Trustee

APPENDIX "G"



REPLY TO: SAM RAPPOS
FILE NO.: 56866
DIRECT: 416-218-1137
FAX: 416-218-1837
EMAIL: samr@chaitons.com

March 15, 2016

VIA EMAIL

COUNSEL TO CONSTRUCTION LIEN CLAIMANTS

Re: Jade-Kennedy Development Corporation ("JKDC")

Dear Sirs,

As you know, we are counsel to the Court-appointed Trustee. We had previously informed you that a motion was scheduled for March 22, 2016 to deal with distribution of holdback amounts to lien claimants.

As will be detailed in the Trustee's Sixth Report and interim statement of receipts and disbursements to be served, the Trustee has realized the following gross sale proceeds since it was appointed on February 11, 2015:

- (a) \$1,750,488.73 from the sale of the Phase III vacant lands owned by JKDC (the "**Vacant Lands**") that are located south of Phases I and II (the "**SUSQ Project**") and separated by a street (South Unionville Avenue) and a roundabout from the project;
- (b) \$3,717,421.84 from the sale of 16 commercial/retail units located underneath the residential condominium tower (the "**Phase II Commercial Units**");
- (c) \$88,504.70 from the sale of three kiosk units located in the Phase I mall (the "**Kiosks**"); and
- (d) \$800,000 from the sale of a commercial/retail unit located in the Phase I mall (legally known as unit 60, level 1 ("**Unit 60**")).

Sixteen of the eighteen construction lien claimants registered a construction lien against all or part of the Vacant Lands. There was no improvement located on the Vacant Lands. The only services or materials provided to the Vacant Lands appear to be certain road curb works.

We have reviewed the case law surrounding the definition of "premises" under the *Construction Lien Act*, and do not believe the cases apply to the current circumstances. The Vacant Lands were separate and apart from the SUSQ Project. There was no common purpose between the SUSQ Project and the Vacant Lands, as in 2011 JKDC had agreed to sell the lands to a developer to build freehold townhomes and detached houses on the property. This developer purchased the Vacant Lands from the Trustee in 2015. There was no intention for the purchasers of the dwellings to be constructed on the Vacant Lands to have any special access to the SUSQ Project.



As a result, the Trustee will be seeking Court approval to distribute up to \$1.25 million (after reserve) of the Vacant Lands sale proceeds to a mortgagee on March 22, 2016.

With respect to the sale of the Kiosks and Unit 60, only Guest Tile Inc. and Draglam Waste & Recycling Inc. registered construction liens against these units. Based on our review of the claims of such claimants, we are of the view that they supplied no services or materials with respect to these units. That being said, the Trustee is not seeking Court approval to distribute these sale proceeds at this time.

Sixteen of the eighteen construction lien claimants registered a construction lien against all or part of the Phase II Commercial Units. Based on our review of the information provided by lien claimants to date, it is not clear what services or materials were supplied with respect to the Phase II Commercial Units and what were supplied to residential units in the residential tower and to the common spaces. The Trustee understands that, at the time of the closing of the sale transactions, the Phase II Commercial Units were primarily "shells" that only had basic electrical, plumbing, drywall, concrete and window work completed.

At this time, we request additional information from each of the lien claimants that provides a breakdown of the services and materials supplied and the amounts invoiced to JKDC so that we may determine which services and materials were supplied to the Phase II Commercial Units and which were supplied to the Phase II residential tower. We also ask that you please confirm in writing details of the amount of the basic holdback that your client claims it is entitled to from JKDC.

As a result of the foregoing, the Trustee will not be in a position to seek any distribution to construction lien claimants at the hearing on March 22, 2016. The Court has confirmed that it has April 5, 11, 12, 14, and 15 available to have a hearing regarding distributions to construction lien claimants. Please confirm as soon as possible if any of these dates do not work for you.

Please contact the undersigned to discuss the matter further.

Yours truly,
CHAITONS LLP

Sam Rappos

(computer generated signature)

Sam Rappos
LAWYER

APPENDIX "H"

SOUTH UNIONVILLE SQUARE
HIGHRISE RESIDENTIAL UNITS

Residential Unit No. 21 Level No. PH

AGREEMENT OF PURCHASE AND SALE

The undersigned, ANISSA Ling-Ling Yuan

collectively, the "Purchaser", hereby agrees with JADE REINOLDY (RESIDENTIAL) CORPORATION by COLLINS BARRLOW TORONTO LIMITED as Covert Appointed Trustee under the Construction Lien Act (the "Vendor") to purchase the above noted unit, as defined for identification purposes only on the sketch attached hereto as Schedule "A", together with One (1) Parking Unit and One (1) Locker Unit which shall be allocated to the Vendor in its sole discretion, being units in York Region Standard Condominium Plan No. 1265 located at 8125 Kennedy Road in the City of Vaughan hereinafter called the "Property" together with an undivided interest in the common elements appurtenant to such units and the exclusive use of those parts of the common elements appurtenant to such units, as set out in the Definition (collectively, the "Unit") on the following terms and conditions:

- The purchase price of the Unit (the "Purchase Price") is TWO HUNDRED SEVENTY EIGHT THOUSAND NINE HUNDRED or \$278,900.00 Dollars in full money of Canada, payable as follows:
 - In the Vendor's sole discretion, amounts of the Purchase Price, by certified cheque or bank draft, as deposits pending completion or closing of the Unit, to be credited on account of the Purchase Price on the Transfer Date:
 - 15,000.00 Dollars
 - 10,000.00 Dollars
 - 15,000.00 Dollars
 - 10,000.00 Dollars
 - the balance of the Purchase Price by wire transfer or certified cheque on the Title Transfer Date, subject to the adjustments hereinafter set forth.
- The transfer of title to the Unit shall be completed on April 28, 2016 subject to any extension of such date as may be established by the Vendor in accordance with the Terms and Conditions attached hereto (the "Title Transfer Date");
 - The Purchaser's address for delivery of any notices pursuant to this Agreement or the Act is as follows:

CONTACT INFORMATION: STREET 653 South Unionville Ave SUITE 103 CITY Unionville ON PROVINCE ON POSTAL CODE L3R 2W9
 TEL: 416-893-9805 FAX:
 E-MAIL: anissa.yuan@hotmail.com

Paragraphs 3 through 42 and Schedules "A" and "B" of this Agreement and the Terms and Conditions Statement of Critical Dates and Addendum to Agreement of Purchase and Sale are an integral part hereof and are contained on subsequent pages. The Purchaser acknowledges that he has read all paragraphs and schedules of this Agreement.

DATED, signed, sealed and delivered this 5 day of MARCH, 2016

SIGNED, SEALED AND DELIVERED In the presence of:

Anissa Ling-Ling Yuan PURCHASER D.O.B. June 27, 1961

[Signature] WITNESS D.O.B.

[Signature] PURCHASER'S SOLICITOR D.O.B.

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 8th day of MARCH, 2016

Vendor's Solicitors:
HARRIS, SHEAFFER LLP
Suzanne 410 - 4100 Yonge Street
Toronto, Ontario, M2P 3B5
Attn: Vera L. Karoly
Telephone: (416) 250-3500 Fax: (416) 250-2100

JADE REINOLDY (RESIDENTIAL) DEVELOPMENT CORPORATION by
COLLINS BARRLOW TORONTO LIMITED as Covert
Appointed Trustee under the Construction Lien Act

[Signature]
Authorized Signing Officer
I have full authority to bind the Corporation.

Li

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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 York Region Standard Condominium Plan No. 1285;
- (c) "Corporation" shall mean the York Region Standard Condominium No. 1285;
- (d) "CRA" means the Canada Revenue Agency or its successors;
- (e) "Creating Documents" means the declaration and description registered against title to the Property, as may be amended from time to time;
- (f) "ONWPA" means the Ontario New Home Warranties Plan Act, R.S.O. 1990, c.O. 31, as amended;
- (g) "Property" shall mean the lands and premises upon which the Condominium is constructed and legally described in the Creating Documents.

Finishes

4. The Purchaser agrees that he/she is purchasing the Unit 'as-is' and unless otherwise set out in a Schedule to this Agreement, shall not be entitled to select any colours or finishes for the Unit.

Adjustments

5. (a) 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 issued or paid on the Title Transfer Date; and
 - (ii) common expense contributions attributable to the Unit.
- (b) 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.
- (c) The Purchaser shall, in addition to the Purchase Price, pay the following amounts to the Vendor on the Title Transfer Date:
- (i) The cost of the TWC enrolment fee for the Unit (together with any provincial or federal taxes exigible with respect thereto);
 - (ii) 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;
- (d) In the event that the Purchaser desires to increase the amount to be paid to the Vendor's solicitors on the Title Transfer 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 Solicitors 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 \$750.00 plus HST), 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.
- (e) It is further understood and agreed that the Unit may include a rental or leased furnace/FVAC system or hot water tank and associated components which would remain the property of the appropriate company or other supplier of such item, and in such event, the Purchaser shall pay the monthly rental/lease charges assessed with respect thereto from and after the Title Transfer Date, and shall execute all requisite rental documents in connection therewith.
- (f) 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 Title Transfer Date and the Purchaser agrees to deliver such security deposit to the Vendor on the Title Transfer Date.

(g) It is acknowledged and agreed by the parties hereto that the Purchase Price already includes a component equivalent to both the federal portion and, if applicable, the provincial portion of the harmonized goods and services tax or single sales tax exigible with respect to this purchase and sale transaction (the "Rebate" as defined below (hereinafter referred to as the "HST"), and that the Vendor shall remit the HST 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, the Purchaser qualifies for the federal and provincial new housing rebates applicable pursuant to the Excise Tax Act (Canada), as may be amended, (collectively, the "Rebate") and further warrants and represents 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 Title Transfer 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 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 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 may be 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 or Vendor's solicitors' request for same (and in any event on or before the Title Transfer Date), all requisite documents and assurances that the Vendor or the Vendor's solicitors may reasonably require in order to conform to the Purchaser's entitlement to the Rebate (and to enable the Vendor to obtain the benefit of the Rebate (by way of assignment or otherwise), including without limitation, the CIST/HST (New Housing Rebate Application for Units Purchased from a Builder or other similar 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

SOUTH UNIONVILLE SQUARE
HIGHRISE RESIDENTIAL UNITS
January 2016

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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 denied 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). At security for the payment of such amount, the Purchaser does hereby charge and pledge his 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 or the Vendor's solicitors request for same (and in any event on or before the Title Transfer Date) the Rebate Forms duly executed by the Purchaser, together with all other requisite documents and assurances that the Vendor or the Vendor's solicitors 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 receives (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 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 pursue the procurement of the Rebate directly from CRA. It is further understood and agreed that in the event that the Purchaser intends in rem out the Unit 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 own after the Title Transfer Date, the federal and provincial new rental housing rebates directly with CRA, pursuant to Section 256.2 of the Excise Tax Act, as may be amended, and other applicable legislation to be enacted relating to the provincial new rental housing rebate.

- (b) Notwithstanding any other provision herein contained in this Agreement, the Purchaser acknowledges and agrees that the Purchase Price does not include any HST payable with respect to any of the adjustments payable by the Purchaser pursuant to this Agreement, or any extras or upgrades or changes 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 HST 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 the amount of (as determined by the Vendor in its sole and absolute discretion) the Reduction.
- (c) 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's 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

- 6. The Purchaser shall be allowed until twenty (20) days prior to the Title Transfer 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, site deeds, abstracts of title, grading certificates, occupancy permits or certificates, nor any other proof or evidence of the title or occupability 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, 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

- 7. The Purchaser hereby agrees to submit to the Vendor or the Vendor's Solicitors no less than 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 expressed in the name of the Purchaser as shown on the face of this Agreement.

"As Is, Where Is"

- 8. The Purchaser acknowledges that the Vendor is selling the Unit on an "as is, where is" basis as it shall exist on the Title Transfer Date and the Vendor shall not be required to complete any incomplete items in the Unit. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Purchaser has conducted such inspections of the condition of and title to the Unit as it deemed appropriate and has satisfied itself with regard to these matters. The description of the Unit contained in the Schedule hereto is for the purpose of identification only. No representation, warranty or condition has or will be given by the Vendor concerning completeness or the accuracy of such descriptions. The Purchaser further acknowledges that all written and oral information (including, without limitation, analyses, financial information and projections, compilations and studies) obtained by the Purchaser from the Vendor with respect to the Unit has been obtained for the convenience of the Purchaser only and is not warranted to be accurate or complete.

Permitted Encumbrances

- 9. (a) The Purchaser agrees to accept title subject to the following:
 - (i) the Creating Documents;
 - (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 Easements 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/antenna, recreational and shared facilities, and/or any other service(s) to or for the benefit of the Condominium (or to any adjacent or neighbouring property), 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, co-tenancy, zoning, 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

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be required by the governmental authorities to ensure compliance therewith and/or the completion of any outstanding obligations thereunder; and

- (v) unregistered or income taxes 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 readings) 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 or 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 obtain 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 situated (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 fulfillment 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 (a) hereof and to execute all documents and do all things requisite for this purpose, either before or after the Title Transfer Date.
- (d) The Purchaser acknowledges that title to the Unit may be transferred to the Purchaser through a vesting order rather than by way of a transfer.

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.

Vesting Order

11. The Purchaser acknowledges that the Unit may be encumbered by mortgages (and collateral security thereto) as well as construction liens and certificates of action which are not intended to be assumed by the Purchaser. The Vendor shall obtain a Vesting Order of the Court ordering that title, title and interest of Jade Kennedy (Residential) Corporation in the Unit be vested in the Purchaser free and clear of all liens, encumbrances, any other possible claims and execution certificates, save and except the permitted encumbrances described in this Agreement. If the Vendor is unable to obtain the Vesting Order on or before the Title Transfer Date, the parties hereby agree that the Title Transfer Date shall be extended for an additional period of up to thirty (30) days to allow the Vendor to obtain said Vesting Order.

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 Title Transfer Date.

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.

Purchaser's Covenants, Representations and Warranties

14. 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.
15. 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 in the Property, Unit or the Condominium and further agrees not to sue, neglect, 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 25 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).
16. 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 under 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, 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.
17. The Purchaser covenants and agrees that he/she shall not directly nor indirectly object to nor oppose any official plan amendment(s), rezoning application(s), severance application(s), minor variance application(s) and/or site plan application(s), nor any other applications ancillary thereto relating to the development of the Property, or any neighbouring or adjacent lands. The Purchaser further acknowledges and agrees that this covenant may be pleaded as an estoppel or bar to any opposition or objection raised by the Purchaser thereto.

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- 18. The Purchaser consents 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

- 19. 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 for optional upgrades, changes or extras ordered by the Purchaser. 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 monies paid to the Vendor for optional upgrades, changes, extras, 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.

Vendor Warranty Program

- 20. Purchaser acknowledges that the Vendor is acting solely in its capacity as appointed trustee of the property owned by Jade Kennedy (Residential) Corporation and not in its personal or corporate capacity and therefore is not providing any warranty of any kind. The Vendor is approved as a registered vendor/builder with the TWC and agrees that on completion of this transaction a warranty certificate for the Unit will be requested by the Vendor from the TWC. These shall be the only warranties covering the Unit and common elements. 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 OHHWPA and shall extend only for the time period and in respect of those items as stated in the OHHWPA, 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

- 21. Notwithstanding the Purchaser occupying the Unit on 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 a 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.

Incomplete Work

- 22. The Purchaser acknowledges that the failure to complete the common elements before the Title Transfer 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 the Warranty Program in respect of apparent definiteness or incomplete work provided, always, that such incomplete work does not prevent occupancy of the Unit as, otherwise, permitted by the Municipality.

Inspection

- 23. (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 Title Transfer 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 OHHWPA. The said CCP and PDI Forms shall be completed 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 Section 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 Vendor 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

- 24. (a) In the event that the Purchaser is in default with respect to any of his or her obligations contained in this Agreement 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 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 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 included in the Drawing, 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. The aforesaid retention of monies is in addition to (and not as a penalty in addition to) any monies forfeited to the Vendor. In the event of the termination of this Agreement by reason of the Purchaser's default as aforesaid, then the Purchaser shall be obligated 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 (state 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 vests and authorizes the said solicitors or Escrow Agent to deliver the said deposit monies and accrued interest, if any, to the Vendor.

- (f) 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 Ontario Regulation 490/01 to the Act at the date of default.

Common Elements

25. 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, committees 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 the time of the Vendor's consent to the purchase of the Unit, or as substituted 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.

Risk

26. The Unit shall be and remain at the risk of the Vendor until the Title Transfer Date. If any part of the Condominium is damaged before the Creating Documents are registered, the Vendor may in its sole discretion either terminate this Agreement and return to the Purchaser all deposit monies paid by the Purchaser to the Vendor, if any, or make such repairs as are necessary to complete this transaction, it being understood and agreed that all insurance policies and the proceeds thereof are to be for the benefit of the Vendor alone.

General

27. 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 Income Tax Act (Canada).
28. The Vendor and Purchaser agree to pay the costs of registration of their own documents and any tax in connection therewith.
29. 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.
30. 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 assigns.
31. 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 appear 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 Purchaser/Prior 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.
32. (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 33 of this Agreement shall be validly made by the Purchaser by the Vendor upon the Purchaser, by a representative of the Vendor attending at the offices of Harris, Sheffer, LLP at 12:00 noon on the Title Transfer Date and remaining there until 4:30 p.m. and is ready, willing and able to complete the transaction. The Purchaser agrees that keys may be released to the Purchaser at the construction site or sales office on Closing. The Vendor's advice that the keys are available shall be valid tender of possession of the Real Property to the Purchaser. In the event the Purchaser or his Solicitor fails to appear or appears and fails to close, such attendance by the Vendor's representative 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 any other term herein, in the event the Purchaser or his Solicitor advise the Vendor or its Solicitors, on or before the 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 Solicitor and may exercise forthwith any and all of its right and remedies provided for in this Agreement and at law.
33. As the electronic registration system (hereinafter referred to as the "Teraview 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 lawyer, who is both an authorized TERS user and in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction, and shall authorize such lawyer to enter into an escrow closing agreement with the Vendor's solicitor on the latter's standard form (hereinafter referred to as the "Escrow Document Registration Agreement"), establishing the procedures and timing for completing this transaction and to be executed by the Purchaser's solicitor and returned to the Vendor's solicitors at least ten (10) days prior to the Title Transfer Date.
- (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:

- (f) shall not occur contemporaneously with the registration of the TransferDeed (and other registrable documentation); and
- (g) 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) The Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the TransferDeed 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 TransferDeed for registration.
- (d) 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) 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.
- (e) 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, keys and/or funds to the Purchaser's solicitor in accordance with the provisions of the Escrow Document Registration Agreement;
- (ii) advised the Purchaser's solicitor, in writing, that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
- (iii) has completed all steps required by 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;

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.

34. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
35. The headings of this Agreement form no part hereof and are inserted for convenience of reference only.
36. 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.
37. (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 unambiguously 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 (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 constituted to constitute the personal indemnity of such person or persons so signing with respect to the obligations of the Purchaser herein.

Notice

38. 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 Title Transfer Date and to the Vendor 11 King Street W., Suite 700, Box 27, Toronto, Ontario, M5H 4C7 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.

Cause of Action/Assignment

39. (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.
- (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 OHTMWA and upon any such assignment 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

40. 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/Varning Provisions

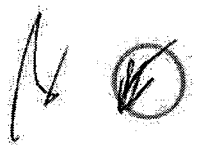
41. (a) The Purchaser is hereby advised that noise levels caused by the Condominium's mechanical equipment, the loading and unloading of tractor trailers in the adjacent commercial condominium and the daily operation of businesses within Units in the adjacent condominium corporation may occasionally cause noise and inconvenience to Unit occupants.

- (b) The Purchaser is hereby advised that 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 Title Transfer Date, at the Purchaser's sole cost and expense.
- (c) The Purchaser acknowledges and agrees that the Vendor (and any of its authorized agents, representatives and/or contractors), as well as one or more authorized representatives of the Condominium, shall be permitted to enter the Unit after the Title Transfer Date, from time to time, in order to enable the Vendor to correct outstanding deficiencies or incomplete work for which the Vendor is responsible, and to enable the Condominium to inspect the condition or state of repair of the Unit and undertake or complete any requisite repairs thereto (which the owner of the Unit has failed to do) in accordance with the Act.
- (d) Purchasers are advised that noise and/or odour levels from surrounding commercial and/or industrial businesses, may be of concern and occasionally interfere with some activities of the Unit occupants as the sound levels may exceed the Municipality's and the Ministry of Environment's noise criteria.
- (e) The Purchaser acknowledges being advised of the following notices:
 - (i) Despite the best efforts of the York Region Public School Board, sufficient accommodation may not be locally available for all students anticipated from the development area and that students may be accommodated in facilities outside the area, and further, the students may later be transferred.
 - (ii) Purchasers agree for the purpose of transportation to school if bussing is provided by the York Region Public School Board in accordance with the Board's policy, that students will not be bussed from home to school, but will meet the bus at designated locations in or outside the area.
- (f) The Purchaser specifically acknowledges and agrees that the Condominium will be developed in accordance with any requirements that may be imposed, from time to time, by any of the governmental authorities; and that the proximity of the Condominium to major arterial roads (namely, Kennedy Road and Highway 407), as well as to public transit services, and railways may result in noise and/or vibration transmissions to the Property, and cause noise exposure levels affecting the Property to exceed the noise criteria established by the governmental authorities, and that despite the inclusion of noise control features within the Condominium, noise levels from the aforementioned sources may continue to be of concern; occasionally interfering with some activities of the residential occupants in the Condominium. The Purchaser nevertheless agrees to complete this transaction in accordance with the terms hereof, notwithstanding the existence of such potential noise concerns, and the Purchaser further acknowledges and agrees that a noise warning clause similar to the preceding sentence (subject to amendment by any wording or text recommended by the Vendor's noise consultants or by any of the governmental authorities) may be registered on title to the Property on the Title Transfer Date, if, in fact, same is required by any of the governmental authorities.
- (g) Purchasers are advised that the Vendor'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 Vendor's design consultants and engineers, and accordingly such Marketing Material does not form part of this Agreement or the Vendor's obligations hereunder.
- (h) The Purchaser acknowledges and agrees that the Vendor reserves the right to add or relocate certain mechanical equipment within the Unit, including but not limited to, a heat pump system and ancillary equipment, to be located and placed along either the interior of an outside wall or an interior partitioning wall, in accordance with engineering and/or architectural requirements.
- (i) Whereas, despite the best efforts of the York Region Catholic Separate School Board, sufficient accommodation may not be available for all anticipated students from the area, you are hereby notified that students may be accommodated in temporary facilities and/or bussed to a school outside the neighbourhood, and further, that students may later be transferred to the neighbourhood school.
- (j) The Purchasers agree that for the purpose of transportation to school, the residents shall agree that children will meet the bus on roads presently in existence or at another designated place designated by the Board.
- (k) The Purchaser acknowledges that the snow removal for the site will not be completed by the local municipality. The Purchaser acknowledges that the property is subject to a Condominium Agreement which must address snow removal.
- (l) The Purchaser acknowledges that garbage removal from the site will be completed by a private contractor unless the local municipality and the Region at their discretion, agree to extend garbage and recycling service to the Condominium. Designated pickup dates and areas will be arranged.

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

42. 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, a mail address, telefacsimile 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 HST);
- (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 Title 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 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 directed to the Vendor at the address set out in the Tarion Addendum, Attention: Privacy Officer.

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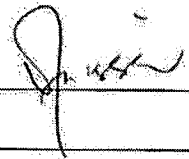
SCHEDULE "A" TO AGREEMENT OF PURCHASE AND SALE

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 issued May 9, 2009 and re-issued May 28, 2011 and accompanying documents in accordance with Section 72 of the Act and the following documents:
 - (a) Registered Declaration
 - (b) Budget
 - (c) Registered By-law 1
 - (d) Registered By-law 2
 - (e) Registered By-law 3
 - (f) Registered By-law 4
 - (g) Registered Notice of Shared Facilities Agreement
 - (h) Registered Notice of Assignment of Shared Facilities Agreement
 - (i) Registered Notice of Assignment of Development Agreement
 - (j) Rules
 - (k) Management Agreement
- 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.

DATED at Toronto, this 5 day of MARCH, 2016.

WITNESS:



 Purchaser

 Purchaser

This offer is conditional on the Trustee obtaining court approval



**ATTACH TARIION ADDENDUM
CONDOMINIUM FORM
(FIRM CLOSING DATE)**

Handwritten initials and a circled mark.

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

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

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

1. 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 60th day following acceptance of this Agreement.





Condominium Form (Firm Occupancy Date)

Property 8323 KENNEDY RD PH21
MARKHAM ONT L3R5W7

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 JADE-KENNEDY (RESIDENTIAL CORPORATION) BY COLLINS
Full Name(s) BARRON TORONTO LIMITED
PURCHASER ANISSA LING LING YUEN
Full Name(s)

1. Critical Dates

The Firm Occupancy Date, which is the date that the Vendor agrees the condominium home will be completed and ready to move in, is: the 28 day of APRIL, 2016.

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 ___ day of _____, 20__.

2. 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 ___ day of _____, 20__.

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 5 day of MAR, 2016.

VENDOR: [Signature]

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 Jade-Kennedy (Residential) Corporation by Collins J
Barrow Toronto Limited as Const Appointed Trustee under the Construction Lien Act

Full Name(s) H 1667170 11 King St. W, 7th Floor

Toronto Registration Number Address

Phone (416) 309-8755 Toronto ON M5H 4C7

City Province Postal Code

Fax 416-480-2646 Email chodelaney@collinsbarrow.com

PURCHASER Anissa Ling-Ling Guen

Full Name(s)

Address 653 South Unionville Ave

Phone (416) 898-9805 Unionville, ON L3R 4W9

City Province Postal Code

Email anissa_guen@hotmail.com

PROPERTY DESCRIPTION

Municipal Address 8323 Kennedy Rd, Suite 1521

City Markham, ON L3R 5W7

Province Postal Code

Share Legal Description Level 12, Legal Unit 15; Unit 4, Level B (PH); Unit 330, Level B (LU)

INFORMATION REGARDING THE PROPERTY

The Vendor confirms that:

(a) The Vendor has obtained Formal Zoning Approval for the Building. Yes No

If no, the Vendor shall give written notice to the Purchaser within 10 days after the date that Formal Zoning Approval for the Building is obtained.

(b) Commencement of Construction: has occurred; or is expected to occur by the _____ day of _____, 20____.

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

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 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.
- "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 Taron Registrar from time to time). The Statement of Critical Dates must be signed by both the Vendor and Purchaser.
- "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 paragraph 1 in Addendum to Schedule A

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

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

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

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

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

The date for satisfaction of any Early Termination Condition cannot be later than 90 days before the Firm Occupancy Date, and will be deemed to be 90 days before the Firm Occupancy Date if no date is specified or if the date specified is later than 90 days before the Firm 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(a) of Schedule A the following applies:
 - (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 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 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) **Firm Occupancy Date:** The Vendor shall set a Firm Occupancy Date which shall be set out in the Statement of Critical Dates.

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

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.
- (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.



7. Extending Dates – Due to Unavoidable Delay (continued)

- (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), 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 initial 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 acknowledgement signed by both parties which:
- (i) includes the Vendor's assessment of the delayed occupancy compensation payable;
 - (ii) describes in reasonable detail the cash amount, goods, services, or other consideration which the Purchaser accepts as compensation (the "Compensation"), if any; and
 - (iii) contains a statement by the Purchaser that the Purchaser accepts the Compensation in full satisfaction of any delayed occupancy compensation payable by the Vendor.
- 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 acknowledgement 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:
- 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;
 - 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
 - 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.

For more information please visit www.tarion.com

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.

Form 320 for use in the Province of Ontario

BUYER: Antissa Ling-Ling Yuen

SELLER: Jade-Kennedy (Residential) Corporation by Collins Barrow Toronto Limited

For the transaction on the property known as: 8323 Kennedy Rd PH 21 Markham L3R 5W7

For the purposes of this Confirmation of Co-operation and Representation, "Seller" includes a vendor, a landlord, or a prospective, seller, vendor or landlord and "Buyer" includes a purchaser, a tenant, or a prospective, buyer, purchaser or tenant, "sale" includes a lease, and "Agreement of Purchase and Sale" includes an Agreement to Lease.

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

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

1. LISTING BROKERAGE

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

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

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

2. PROPERTY SOLD BY BUYER BROKERAGE – PROPERTY NOT LISTED

- The Brokeragerepresent the Buyer and the property is not listed with any real estate brokerage. The Brokerage will be paid (does/does not)
 - by the Seller in accordance with a Seller Customer Service Agreement
 - or: by the Buyer directly

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


BUYER

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


CO-OPERATING/BUYER BROKERAGE


SELLER


LISTING BROKERAGE

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

CO-OPERATING BROKERAGE- REPRESENTATION:

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

CO-OPERATING BROKERAGE- COMMISSION:

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

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

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

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

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

HOMELIFE LANDMARK REALTY INC.
 (Name of Co-operating/Buyer Brokerage)
 7240 WOODBINE AVE UNIT 103 MARKHAM
 Tel: (905) 305-1600 Fax: (905) 305-1609
 Date: Mar 5, 2016
 (Authorized to bind the Co-operating/Buyer Brokerage)
GEORGE CHAN
 (Print Name of Broker/Salesperson Representative of the Brokerage)

Tradeworld Realty Inc Brokerage
 (Name of Listing Brokerage)
 4394 Steeles Ave E STE D1 Markham ONT
 Tel: 416-491-3228 Fax: 416-491-0288
 Date: Mar 5, 2016
 (Authorized to bind the Listing Brokerage)
Nancy Hui
 (Print Name of Broker/Salesperson Representative of the Brokerage)

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

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

 BUYER'S INITIALS SELLER'S INITIALS

ACKNOWLEDGEMENT

I have received, read, and understand the above information.

(Signature of Buyer) _____ Date: Mar 5, 2016
 (Signature of Seller) _____ Date: Mar 28, 2016

(Signature of Buyer) _____ Date: _____
 (Signature of Seller) _____ Date: _____